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Senate Standing Committees' Rules on Legislative Activities and Executive Business: Analysis for the 114th Congress

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Summary

Senate Rule XXVI directs Senate committees to adopt rules of procedure and publish them in the *Congressional Record* by March 1 of the first year of a new Congress. A committee's rules must be "not inconsistent" with the Senate's rules. Committee rules, even if they have not been amended, must be revalidated in each Congress as provided in Rule XXVI.

Committee rules cover a variety of subjects—from meeting dates to quorums to processing nominations. Some Senate rules that are reflected in committees' rules must be followed, such as the rule that requires a majority of a committee to be physically present to report a measure or matter. Other committee rules, such as those concerning the relationship between a committee and its subcommittees, are largely within the discretion of each committee to design.

From a chair's perspective, a committee's rules authorize the chair to act on a variety of matters. However, the rules might provide the chair with a different authority for each matter. A chair might be able to act on his or her own authority on one matter but need the concurrence of the ranking minority member on another matter. In one instance, a chair may be able to act quickly, but in another instance the chair might be required to give notice prior to taking an action. Each committee's rules have evolved distinctively, and different degrees of discretion or limitation in each committee's rules govern each action that a chair might take.

From the minority's perspective, a committee's rules govern the minority's role in agenda setting, decision making, and procedural prerogatives. Committees' rules vary in what role they provide the minority in selecting witnesses, placing matters on the agenda, forming a quorum, bringing a matter to a vote, authorizing subpoenas, and so on.

From an individual committee member's perspective, a committee's rules allocate authority between the chair and ranking minority member and between the chair and the committee's members. In many rules, the chair, or the chair with the concurrence of the ranking minority member, may make decisions, such as reducing the notice of a meeting or waiving other requirements in the committee's rules related to holding a meeting. In other rules, decisions may be made only by action of the committee.

Just as in the Senate, many actions in committees are taken by unanimous consent. Unanimous consent may allow some or many committee rules to be set aside. It might also be used to create ad hoc procedures that accommodate committee members on a particular piece of legislation or for a specific meeting or to facilitate a committee's conduct of business. Before agreeing to unanimous consent, a committee member might wish to understand the specific committee rules and committee member prerogatives being set aside.

In cataloguing and comparing the breadth of 114th Congress Senate committee rules on legislative and executive business, this report provides the reader with a guide to the variety of committee rules. This report will be updated during the 115th Congress.

A companion report on House committees' rules is also available: CRS Report R41605, *House Standing Committees' Rules on Legislative Activities: Analysis of Rules in Effect in the 114th Congress*, by Michael L. Koempel and Judy Schneider.

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Introduction

All Senate committees must adopt rules of procedure, unless exempted from doing so, and publish them in the *Congressional Record* by March 1 of the first year of a new Congress.[1] An amendment to a committee's rules during a two-year Congress does not take effect until the amendment is published in the *Congressional Record*.[2] If the Senate establishes a committee after February 1 of the first year of a new Congress, the rules of that committee must be published in the *Congressional Record* not later than 60 days after the establishment of the committee. A committee's rules must be "not inconsistent" with the Senate's rules. (Rule XXVI, paragraph 2.)

A committee typically adopts the rules that were in effect in the previous Congress, with any change agreed to by the committee usually being incremental. A committee's rules develop over time and fit the jurisdiction, practices, and culture of a committee, leaving little reason for major changes, even when control of the Senate changes. A change in a Senate rule or standing order might cause committees to reexamine their rules.

Many Senate rules, standing orders, and other decisions of the Senate, such as committee funding, affect committees' conduct of their legislative and executive business.[3] However, the two principal Senate rules related to committees' activities are Rule XXV, which contains committees' jurisdictions, and Rule XXVI, which details committee procedures.[4]

A number of committees specifically acknowledged the primacy of Senate rules in their own rules. These were the Committees on Armed Services; Energy and Natural Resources; Foreign Relations; Health, Education, Labor, and Pensions; Small Business and Entrepreneurship; Veterans' Affairs; and Indian Affairs. Some of these committees' rules also acknowledged the preeminence of Senate resolutions and the Legislative Reorganization Acts of 1946 and 1970. The Foreign Relations Committee, in addition, made its Rule I its jurisdictional statement from Rule XXV, paragraph 1(j). Most committees appended their jurisdictional statements to their rules.[5]

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[1] For an introduction to congressional committees, see CRS Report RS20794, *The Committee System in the U.S. Congress*, by Judy Schneider; and CRS Report 98-241, *Committee Types and Roles*, by Valerie Heitshusen.

[2] In a modern case, a conviction for perjury in testimony to a Senate committee was overturned on appeal because the committee had failed to publish in the *Congressional Record* an amendment to its rules. The amendment dealt with the quorum for taking sworn testimony. U.S. v. Reinecke, 524 F.2nd 435 (D.C. Cir. 1975).

[3] For explanation of the committee assignment process in the Senate, see CRS Report 98-183, *Senate Committees: Categories and Rules for Committee Assignments*, by Judy Schneider; CRS Report RL30743, *Committee Assignment Process in the U.S. Senate: Democratic and Republican Party Procedures*, by Judy Schneider; and CRS Report 98-635, *Assignments to Senate Subcommittees*, by Judy Schneider.

A unique rule of the Health, Education, Labor, and Pensions Committee provided for the eventuality of a 1:1 majority-minority ratio on the committee. The rule provided that, in that instance, the party of the chair would be considered the majority party. In addition, the rule stated that numerical requirements in the rule would be unaffected.

[4] For a précis of Senate rules that apply to committees, see CRS Report 98-311, *Senate Rules Affecting Committees*, by Valerie Heitshusen; and also CRS Report 98-711, *Senate Rules for Committee Markups*, by Walter J. Oleszek. Comparative excerpts from selected Senate committee rules may be found in CRS Report R44369, *Senate Committee Rules in the 114th Congress: Key Provisions*, by Valerie Heitshusen.

Senate rules and standing orders appear in U.S. Congress, Senate Committee on Rules and Administration, *Senate Manual*, prepared by Matthew McGowan, 113th Cong., 1st sess., S.Doc. 113-1 (Washington: GPO, 2014). Senate precedents are compiled in U.S. Congress, Senate, *Riddick's Senate Procedure*, prepared by Floyd M. Riddick and Alan S. Frumin, 101st Cong., 2nd sess., S.Doc. 101-28 (Washington: GPO, 1992). See also CRS Report RL30788, *Parliamentary Reference Sources: Senate*, by Megan S. Lynch and Richard S. Beth.

[5] If a committee's rules are silent on a procedure, Senate rules apply to the extent there is a relevant rule or precedent, (continued...)

In addition to their rules, some committees have adopted resolutions, manuals, and other guidance that may affect their operations.[6]

The primary legislative function of the standing committees of the U.S. Senate is to evaluate the thousands of bills and resolutions that Senators introduce in each two-year Congress, which are normally referred upon introduction to the appropriate committee, and measures passed by the House. Senate committees also annually evaluate thousands of executive nominations, and the Foreign Relations Committee has jurisdiction over treaties submitted by the President for the advice and consent of the Senate. This report catalogues and compares the rules in the 114th Congress of the 18 Senate committees with legislative authority—committees having authority to report legislation to the Senate.[7]

The report is organized topically rather than by Senate rule or paragraph of a Senate rule or by committee. Broad topics based principally on provisions of Senate Rule XXVI, such as committee meetings, are divided into more specific topics, such as regular meeting days, additional committee meetings, and meetings initiated by committee members. Topics also include nominations, treaties, and related responsibilities covered by committees' rules. All these topics might be further divided.

For most topics, a summary of the relevant provision or provisions of any Senate rule appears first. This summary is followed by an explanation and a comparison of individual committees' rules, which appear in both text and tables. Relevant provisions of standing orders applicable to all committees or specific committees, which pertain to legislative or executive business, are also cited.[8]

The report is not intended to be read from beginning to end but might be used by chairs, ranking minority members, and committee staff considering amendments to rules, by committee members and their legislative staff seeking to increase their knowledge of committee rules, and by new Senators and staff building procedural knowledge.

(...continued)

unless a committee adopts a rule, resolution, or order to govern proceedings on which its rules are silent.

[6] For example, the Commerce, Science, and Transportation Committee published a manual on preparing committee reports. U.S. Congress, Senate Committee on Commerce, Science, and Transportation, *Guide for Preparation of Committee Reports*, committee print, 111th Cong., 1st sess., November 9, 2009, S.Prt. 111-33 (Washington: GPO, 2009). The Banking, Housing, and Urban Affairs Committee adopted procedures in 1981 on processing presidential nominations. The procedures are appended to the committee's rules but are not numbered with them. Senator Richard Shelby, "Committee on Banking, Housing, and Urban Affairs," insert, *Congressional Record*, daily edition, vol. 161 (January 27, 2015), pp. S538-S539.

[7] Although many individuals refer to all bills and resolutions as *legislation*, the term strictly refers only to bills and joint resolutions, which, if passed by the two houses of Congress in the exact same form and signed by the President, become law. The committees examined in this report consider bills and the three forms of resolutions—joint, concurrent, and simple.

The Select Committee on Aging does not have legislative authority. The Select Committee on Ethics may report resolutions concerning individual conduct or regulation of conduct and is not included in this report. For information on the committee, see CRS Report RL30650, *Senate Select Committee on Ethics: A Brief History of Its Evolution and Jurisdiction*, by Jacob R. Straus. No joint committee currently has authority to report legislation to the Senate.

[8] This report does not examine Senate rules on committee assignments, committee staff, or other topics not directly related to the conduct of committees' legislative and executive business. It does not examine committee rules on staff and administrative matters.

The principal headings in the report are as follows:

- "Subcommittees"
- "Committee Meetings"
- "Quorum Requirements"
- "Open and Closed Meetings"
- "Hearing Procedures"
- "Oversight"
- "Referral of Legislation"
- "Markup Procedures"
- "Voting in Committee"
- "Reports"
- "Nominations"
- "Foreign Relations Committee's Treaty Procedures"
- "Committees' Other, Related Responsibilities"
- "Committee Records"

Subcommittees

Senate Rule

A Senate rule prohibits committees from creating a subunit of a committee other than a subcommittee in the absence of permission from the Senate granted by a resolution. (Rule XXV, paragraph 4(b)(4).)

Committee Rules on Subcommittees' Existence

Creation of Subcommittees

The Budget; Rules and Administration; Veterans' Affairs; and Indian Affairs Committees made no mention of subcommittees in their rules. A Small Business and Entrepreneurship Committee rule stated that the committee would have no standing subcommittees.

The Environment and Public Works and Homeland Security and Governmental Affairs Committees' rules established and named their standing subcommittees.

The Banking, Housing, and Urban Affairs; Foreign Relations; and Intelligence Committees' rules stated that subcommittees may be created by a majority of the committee; the Foreign Relations and Intelligence Committees specified a majority vote.[9]

The Finance Committee's rule stated that the chair of the committee, with the approval of the committee, would appoint subcommittees. The rule also provided that the ranking minority

[9] S.Res. 445 (108th Cong.), agreed to in the Senate October 9, 2004, authorized creation of a Subcommittee on Oversight in the Intelligence Committee and a Subcommittee on Intelligence in the Appropriations Committee. Neither subcommittee exists.

member would recommend minority appointments to the chair. The rule of the Energy and Natural Resources Committee provided for consultation on subcommittee sizes and ratios between the chair and ranking minority member. The Homeland Security and Governmental Affairs Committee's rules allowed the creation of ad hoc subcommittees by the chair upon consultation with the ranking minority member.

Additionally, the Homeland Security and Governmental Affairs and Intelligence Committees' rules allowed these committees' subcommittees to adopt their own rules, subject to limits in the committees' rules.[10]

Subcommittee Authority in Committee Rules

A rule of the Armed Services Committee authorized its subcommittees to meet, hold hearings, receive evidence, and report to the committee on all matters referred to them. A rule of the Commerce, Science, and Transportation Committee dealt only with the eventuality of a change in chairmanship. Despite the unique importance of its subcommittees, the only rule of the Appropriations Committee specifically applicable to its subcommittees was a rule on the availability of subcommittee reports. (See, below, "Subcommittees' Reporting or Discharge.")

Nearly every rule of the Health, Education, Labor, and Pensions Committee used the phrase "the committee or a subcommittee." In contrast, the rules of the Judiciary Committee dealt specifically with only four aspects of subcommittee organization and authority.

Several committees applied their rules to their subcommittees, in some instances noting to the extent applicable or not in conflict with specific committee rules related to subcommittee procedures. These committees were Agriculture, Nutrition, and Forestry; Armed Services; Foreign Relations; and Intelligence. The rule of the Agriculture Committee indicated the committee could authorize or limit subcommittee duties.

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[10] See, for example, the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *Rules of Procedure: Senate Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs*, committee print, 114th Cong., 1st sess., March 2015, S.Prt. 114-13 (Washington, DC: GPO, 2015), available at https://www.gpo.gov/fdsys/pkg/CPRT-114SPRT93595/pdf/CPRT-114SPRT93595.pdf.

This subcommittee has a long, important, and unique history in the Senate. The Senate on January 28, 1948, adopted a resolution (S.Res. 189, 80th Congress) empowering the Committee on Expenditures in the Executive Departments and "any duly authorized subcommittee thereof" with authority and funds to hire staff to conduct investigations. See Senator Charles Brooks, "Authorization for Committee on Expenditures in the Executive Departments to Make Certain Expenditures, etc.," Senate debate, *Congressional Record*, vol. 94, part 1 (January 28, 1948), p. 605; and "Authorization to the Committee on Expenditures in the Executive Departments—Motion to Reconsider," Senate debate, *Congressional Record*, vol. 94, part 2 (February 25, 1948), pp. 1668-1682. With Republicans in the majority, the party leadership had decided to establish an investigations subcommittee upon adoption of the resolution. See "Ferguson Picked to Head New War Inquiry Group," *New York Herald Tribune*, December 15, 1947, p. 3; and Jack Steele, "Ferguson Will Get Brewster Inquiry Role," *New York Herald Tribune*, January 2, 1948, pp. 1, 6.

Senators and the Senate Historical Office have documented the history of the subcommittee. See, for example, U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *About the Permanent Subcommittee on Investigations*, at http://www.hsgac.senate.gov/subcommittees/investigations/about; Senator Susan Collins, "Fiftieth Anniversary of the Permanent Subcommittee on Investigations," remarks in Senate, *Congressional Record*, vol. 144, part 1 (January 28, 1998), pp. 319-321; "Ruth Young Watt, Chief Clerk, Permanent Subcommittee on Investigations, 1948-1979," Oral History Interviews, Senate Historical Office, Washington, DC, available at http://www.senate.gov/artandhistory/history/oral_history/Ruth_Young_Watt.htm; and Senator Sam Nunn, "The Impact of the Senate Permanent Subcommittee on Investigations on Federal Policy," *Georgia Law Review*, vol. 21 (1986-1987), pp. 17-56. For a more current review of the subcommittee's role, see John Aloysius Farrell, "The Raptor," *National Journal*, February 11, 2012, pp. 24-28.

Some committees' rules provided explicit direction on the functioning of subcommittees; other committees' rules did not provide specific direction. Some committees were selective in granting or limiting the authority of their subcommittees by establishing rules for the subcommittees that differed from those for the full committee.

Committees' rules on their subcommittees are explored in the following four sections on "Subcommittee Membership and Participation," "Subcommittees' Scheduling of Meetings and Hearings," "Referral of Legislation to Subcommittees," and "Subcommittees' Reporting or Discharge." See also, below, "Oversight.") For a full understanding of a rule applicable to a subcommittee, a reader must check the parent committee's rule under the specific, relevant topic.

Subcommittee Membership and Participation

Senate Rule

Rule XXV, paragraph 4(b)(1) and (2) limits Senators' assignment to subcommittees. Senators may not serve on more than three subcommittees of so-called A committees, except for subcommittees of the Appropriations Committee. Senators may not serve on more than two subcommittees of so-called B committees.[11]

Membership

The rules for the Agriculture, Nutrition, and Forestry; Banking, Housing, and Urban Affairs; Energy and Natural Resources; and Foreign Relations Committees provided that members of each committee would be assigned to subcommittees on the basis of seniority. No committee member would be assigned to a second subcommittee until all members were assigned to at least one subcommittee, and no member would be assigned to a third subcommittee until all members were assigned to two subcommittees.[12] The Banking, Housing, and Urban Affairs Committee prohibited members from sitting on more than three subcommittees and from chairing more than one subcommittee. The Foreign Relations Committee prohibited members from sitting on more than four subcommittees.

The Environment and Public Works Committee's rule provided that the chair would appoint subcommittee members after consulting the ranking minority member. The Finance Committee's rule stated explicitly that the ranking minority member would recommend to the chair the appointment of minority members to subcommittees.

A rule of the Homeland Security and Governmental Affairs Committee specified that the chair would consult the majority members and the ranking minority member before announcing subcommittee assignments.

The Energy and Natural Resources Committee's rule stated that the chair of the full committee, upon consultation with the ranking minority member, would determine subcommittee sizes and ratios.

[11] For a listing of A, B, and C committees and an explanation of assignment limitations, see CRS Report 98-183, *Senate Committees: Categories and Rules for Committee Assignments*, by Judy Schneider. For further explanation of the subcommittee assignment process, see CRS Report 98-635, *Assignments to Senate Subcommittees*, by Judy Schneider.

[12] Rules such as these implemented a sense of the Senate provision included in the Committee System Reorganization Amendments of 1977. This provision appears as a standing order in § 83.3 of the *Senate Manual*.

The rules for the Commerce, Science, and Transportation and Judiciary Committees stated that subcommittees would be established de novo if a change in a chairmanship should occur. Under both committees' rules, seniority would "not necessarily apply."

The Banking, Housing, and Urban Affairs and Intelligence Committees' rules each had requirements for the selection of chairs of subcommittees. The Banking, Housing, and Urban Affairs Committee's rules stated that no member of the committee could chair more than one subcommittee. The Intelligence Committee's rules stipulated that the chair and vice chair of the full committee were responsible for choosing subcommittee chairs and vice chairs, respectively.[13]

Participation in Subcommittee Activities

Several committees' rules explicitly allowed, or allowed and limited, committee members' participation in hearings and meetings of subcommittees on which members did *not* serve. The rules for the Agriculture, Nutrition, and Forestry; Energy and Natural Resources; and Judiciary Committees allowed members of the full committee to sit with all subcommittees for meetings and hearings; however, a committee member sitting with a subcommittee could not vote unless he or she was a member of that subcommittee.

The Commerce, Science, and Transportation, Finance, and Homeland Security and Governmental Affairs Committees had similar rules permitting members of the full committee to sit with any subcommittee for a hearing. The Finance Committee rule explicitly allowed all committee members to question witnesses. The Homeland Security and Governmental Affairs Committee rule allowed committee members to question witnesses with the permission of the chair and ranking minority member.

Without mentioning participation of committee members in hearings of subcommittees on which they did not serve, the Banking, Housing, and Urban Affairs Committee's subcommittee hearing rule stated that only subcommittee members and professional staff authorized by the chair or ranking minority member of the subcommittee could question witnesses.

Ex Officio Service

Senate Rule

A Senate rule permits the chairs and ranking minority members of committees to serve ex officio, without vote, on their committees' subcommittees. (Rule XXV, paragraph 4(b)(3).)

Committee Rules

The rules of the Agriculture, Nutrition, and Forestry and Appropriations Committees stated that the chair and ranking minority member of the full committee served as ex officio members on the committee's subcommittees on which they did not serve; however, they were not allowed to vote in or be counted toward a quorum of a subcommittee on which they served ex officio.

The rules of the Finance and Homeland Security and Governmental Affairs Committees stipulated that the committee chair and ranking minority member served as ex officio members on the committee's subcommittees, although, as ex officio members, they were not allowed to vote

[13] The standing order creating the Intelligence Committee authorized the committee to organize subcommittees and provided that each subcommittee have a chair and vice chair, designated by the committee chair and vice chair, respectively. The standing order, as amended, appears in § 81 of the *Senate Manual*.

on subcommittees of which they were not members. The rule of the Foreign Relations Committee stated that the committee chair and ranking minority member served, without voting privilege, on all subcommittees.

Subcommittees' Scheduling of Meetings and Hearings

Senate Rule

A Senate rule states that a committee or subcommittee may not meet after the two first hours that the Senate has been in session or, when the Senate is in session, later than 2:00 p.m. Special leave, however, may be granted by the majority leader and minority leader, followed by the announcement of the leaders' consent to the Senate.[14] The Appropriations and Budget Committees are exempt from the restriction in this rule. (Rule XXVI, paragraph 5(a).)

(See also, below, committees' rules that explicitly apply or may apply to a committee's subcommittees: "Committee Meetings," "Quorum Requirements," "Open and Closed Meetings," "Hearing Procedures," "Oversight," "Markup Procedures," and "Voting.")

Committees' Rules

On Avoiding Scheduling Conflicts

The rules for the Agriculture, Nutrition, and Forestry; Foreign Relations; and Health, Education, Labor and Pensions Committees stated that subcommittees could not meet during meetings of the full committee. Additionally, the Agriculture, Nutrition, and Forestry Committee's rule specified that there may be no more than one subcommittee business meeting at one time. The Health, Education, Labor, and Pensions Committee's rule stated that there may be no more than one subcommittee markup meeting at one time.

The Energy and Natural Resources Committee prohibited a subcommittee from holding a hearing during a full committee meeting but waived the prohibition for a field hearing. The committee also allowed the prohibition to be waived by permission of a majority of the full committee.

The Finance Committee's rule stated that subcommittee meetings could not be held when the full committee was in executive session, except by unanimous consent. Additionally, no more than one subcommittee could meet while the full committee was holding hearings, and no more than two subcommittees could meet at one time. However, a subcommittee meeting during committee hearings or two subcommittees meeting concurrently was allowed only upon the approval of the chair and ranking minority member of the full committee and chair(s) and ranking minority member(s) of the subcommittee or subcommittees proposing to meet. Under the rule, the staff director was given responsibility for coordinating subcommittee meetings to insure that they conformed to the committee's rules.

[14] The rule requires the majority leader or his designee to announce the time and place of each meeting to which he and the minority leader have given their consent. More typically, a designee of the majority leader requests unanimous consent that a list of committee meetings at the desk be approved. The *Congressional Record* reports a unanimous consent request for each committee meeting on the list, showing the date, time, and location.

On Scheduling Procedures and Quorums

Several committees had specific rules about how subcommittees could schedule meetings and hearings. In order to avoid scheduling conflicts, the Armed Services Committee allowed the chair of a subcommittee to schedule a meeting or hearing after consulting with the ranking minority member of the subcommittee, the chair of the full committee, and the chairs of other subcommittees. The Energy and Natural Resources Committee's rule stated that hearings of the committee's subcommittees, except field hearings, could not be held concurrently with a committee hearing or meeting, except by the approval of a majority of the committee. (See also, below, "Field Hearings.")

The Environment and Public Works Committee allowed subcommittee chairs to call meetings with the concurrence of the full committee chair and after consulting the ranking minority members of the committee and subcommittee. Another committee rule established a subcommittee quorum to conduct business as a majority of the subcommittee's members, one member present being a minority member. (See also, below, "Quorum Requirements.")

The rule of the Foreign Relations Committee provided that subcommittee meetings would be scheduled after consultation with the committee chair, for the purpose of seeking to avoid scheduling conflicts among subcommittees. The committee also had a rule stating that its subcommittees could not hold hearings incurring expenses without receiving approval from the committee chair or by decision of the committee unless funds had been specifically made available by the Senate.

A rule of the Health, Education, Labor, and Pensions Committee required a majority of the members of a subcommittee to be actually present to constitute a quorum to transact business. (See also, below, "Quorum Requirements.")

The Homeland Security and Governmental Affairs Committee's rule subjected subcommittees to chamber rules in allowing them to set their own quorum rules, and disallowed proxies to count for a quorum. The committee also applied to subcommittees its rule prohibiting roll-call votes unless the appropriate quorum was present. (See also, below, "Quorum Requirements.")

Banking Committee Rule

The Banking, Housing, and Urban Affairs Committee's rules included a provision applicable to its subcommittees that was similar to Senate Rule XXVI, paragraph 3, regarding the scheduling of special meetings. The committee's rule allowed a majority of a subcommittee's membership to seek a "special meeting" when any three members of a subcommittee filed a written request for a meeting with the committee. The clerk of the committee must then notify the chair of the subcommittee. The chair has three calendar days to call the special meeting, which must be scheduled within seven calendar days after the request is filed. If the chair does not act, a majority of the subcommittee's members may file a written notice in the committee office setting the date and hour of the special meeting. If a majority files the notice, the committee clerk is required to inform all subcommittee members of the meeting, which will be held on the date and time identified in the notice. (See also, below, "Meetings Initiated by Committee Members.")

Other Banking Committee rules applicable to its subcommittees' meetings required three days' notice of a markup but allowed a chair to hold the meeting earlier for "exigent circumstances." No hearings could be held outside of the District of Columbia without prior consultation with the committee chair and the agreement of the subcommittee chair and ranking minority member or of the subcommittee by majority vote. (See also, below, "Field Hearings.") Subcommittees were

also prohibited from undertaking an investigation unless authorized by the committee or the Senate. (See also, below, "Investigations.")

Presiding in Subcommittee

A rule of the Environment and Public Works Committee provided that, in the absence of a subcommittee chair, the ranking majority member of the subcommittee would preside at a meeting. The rule also allowed any committee member to preside at a hearing. (See also, below, "Presiding Officer.") Another committee rule established that a majority of subcommittee members, at least one of whom is a member of the minority, constituted a quorum for business. (See also, below, "Quorum Requirements.")

Referral of Legislation to Subcommittees

Four committees had rules specifically covering the referral of legislation to the committees' subcommittees.

The Finance Committee's rule stated that all legislation would remain on the committee calendar for consideration unless a majority of the members of the committee present and voting agreed to refer a measure to an appropriate subcommittee. If the committee referred House-passed legislation to a subcommittee, then the chair could limit the duration of the subcommittee's consideration. The rule stated that the period for subcommittee consideration of a House-passed measure should be six weeks but that the time could be extended in the event of an "imminent" adjournment or long recess. Once the time expired, the legislation would be restored to the full committee calendar. Decisions of the chair were subject to approval or modification by a majority vote of the committee.

Another committee rule provided that the Finance Committee chair would attempt to schedule "reasonably frequent" meetings to permit consideration of legislation reported favorably from subcommittees.

The Foreign Relations Committee's rules stated that subcommittees would deal with legislation and oversight as directed by the committee. Legislation or other matters could be referred to a subcommittee at the discretion of the chair or by a vote of a majority of the committee. The chair or the committee could refer legislation or a matter to more than one subcommittee when it fell within the jurisdiction of more than one subcommittee.

The Intelligence Committee's rules also stated that subcommittees would deal with legislation and oversight as directed by the committee.

Except for matters retained by the full committee, the Judiciary Committee's rule stated that the chair would refer legislation to one or more subcommittees. A matter could also be retained by the full committee and not referred to a subcommittee by agreement of the chair and ranking minority member or by a majority vote of the committee.

Subcommittees' Reporting or Discharge

A subcommittee may not report a measure or investigation directly to the Senate, unless authorized by the Senate. A subcommittee reports to its parent committee.[15] A number of committees had specific rules for subcommittees reporting back to the full committee.

[15] *Riddick's Senate Procedure*, p. 1196.

The Agriculture, Nutrition, and Forestry Committee's rules stated that, if a subcommittee did not report a measure to the full committee within a "reasonable time," the chair of the full committee could withdraw that measure from the subcommittee and report the action to the full committee for further disposition. The committee could also discharge a subcommittee from further consideration of a specific measure by a majority vote of the members present.

The Appropriations Committee's rules stated that, "to the extent possible," subcommittees' bills and reports must be given to each member of the full committee at least 36 hours before a measure was considered by the full committee.

The Banking, Housing, and Urban Affairs Committee imposed on its subcommittees the chamber's rule on reporting. A majority of a subcommittee needed to be actually present to report, and the vote to report needed the concurrence of a majority of the members present. A roll-call vote on a matter other than reporting was disallowed, unless a majority of the subcommittee was present. If a roll-call vote was taken, absent members could cast votes by proxy if the proxy was "sufficiently clear" as to the subject and the member's position. Proxies must be requested or withdrawn by written notice; they were to be retained in committee files. (See also, below, the Banking Committee's rules applicable to voting: "Voting.")

The Finance Committee's rules had a specific provision on discharging legislation from a subcommittee. A committee rule stated that the full committee could discharge a subcommittee from further consideration of a piece of legislation at any time by majority vote of the members present.

A rule of the Health, Education, Labor, and Pensions Committee provided that, if a subcommittee did not report a measure to the full committee in a "reasonable time," the chair of the full committee could withdraw the measure from the subcommittee and report this action to the committee.

The Health, Education, Labor, and Pensions Committee also had a specific quorum requirement for subcommittees to report legislation to the full committee. The committee's rule stated that no measure or matter could be reported to the committee unless a majority of the subcommittee's members, including at least one member of the minority who was a subcommittee member, was present. In the event that a measure or matter could not be ordered reported because of the absence of a minority member, the measure or matter must lay over for a day. If the presence of a member of the minority was not then obtained, a majority of the subcommittee's members actually present could order the measure or matter reported. (See also, below, "Quorum Requirements.")

The Judiciary Committee's rule stated that, if all members of a subcommittee consented, a measure or matter could be reported to the committee by polling subcommittee members. A majority of the members who voted must have voted affirmatively. (See also, below, "Polling.")

The Homeland Security and Governmental Affairs Committee rules stated that a subcommittee chair must notify the committee chair in writing whenever a measure had been ordered reported. Draft reports must conform to the form, style, and arrangement required by the Standing Rules of the Senate and be filed with the committee clerk at the earliest practicable time. (See also, below, "Reports.") Committee proxy rules also applied to subcommittee voting (see, below, "Proxy Voting"). See the relevant note to **Table 6** concerning subcommittees' authorization of subpoenas.

Another rule of the committee specified that when a subcommittee authorized a subpoena under its own rules, the subcommittee must notify the committee's chair and ranking minority member (or staff members designated by them) in writing. The subpoena could not be issued for at least 48 hours, excluding Saturdays and Sundays, unless the chair and ranking minority member

waived the delay or the subcommittee chair certified to the committee chair and ranking minority member that it was necessary to issue the subpoena immediately. (See also, below, "Subpoenas.")

Committee Meetings

Senate Rules

A Senate rule states the committees' and subcommittees' morning meetings must be scheduled in one of two time periods or for both time periods. The first time period ends at 11:00 a.m. The second time period begins at 11:00 a.m. and ends at 2:00 p.m.[16] (Rule XXVI, paragraph 6.)

Another Senate rule states that a committee or subcommittee may not meet after the two first hours that the Senate has been in session or, when the Senate is in session, later than 2:00 p.m. Special leave, however, may be granted by the majority leader and minority leader, followed by the announcement of the leaders' consent to the Senate.[17] The Appropriations and Budget Committees are exempt from the restriction in this rule. (Rule XXVI, paragraph 5(a).)

Regular Meeting Days

Senate Rule

A Senate rule requires each standing committee, except the Committee on Appropriations, to establish a regular meeting day—weekly, biweekly, or monthly. (Rule XXVI, paragraph 3.)

Explanation of Table 1: Regular Meeting Days, Senate Committees' Rules, 114th Congress

Table 1 compares committee rules on regularly scheduled meetings in the 114th Congress across the 16 standing Senate committees and the 2 additional permanent Senate committees with legislative authority. The 16 standing committees are listed in alphabetical order in the left-most column, and the 2 additional permanent committees are listed below. The 3 rows of the heading contain key terms describing the committees' rules, as explained immediately below. A check in a box indicates that a committee adopted a rule or a closely related variation on it. An empty box indicates that a committee did not address that subject in its rules. Certain checks and boxes are footnoted to offer additional detail on a particular committee's rule. In some cases, a single footnote is used to give the same additional detail for the rule of more than one committee.

[16] The Committee System Reorganization Amendments of 1977 authorized the Rules and Administration Committee, in consultation with the majority and minority leaders, to establish a computerized committee, subcommittee, and joint committee scheduling system. Committees and subcommittees were directed to notify an office designated by the Rules Committee of meetings scheduled and canceled. This provision appears as a standing order in § 83.4 of the *Senate Manual*. The Office of the Senate Daily Digest is the office designated under this authority. See, for example, the explanation and example at "Senate Committee Meetings," Extension of Remarks, *Congressional Record*, daily edition, vol. 162 (September 14, 2016), p. E1278.

[17] The rule requires the majority leader or his designee to announce the time and place of each meeting to which he and the minority leader have given their consent. More typically, a designee of the majority leader requests unanimous consent that a list of committee meetings be approved, without reading the specific committees and meetings on the list. The *Congressional Record* reports a unanimous consent request for each committee meeting on the list, showing the date, time, and location.

The following list explains the headings in **Table 1**:

- *Day* refers to the day of the week that a committee rule established as the committee's regular meeting day. The numbers in the third row of the heading indicate, for example, the first Tuesday of the month, second Tuesday of the month, etc. Committees with a check in every box for one weekday could meet weekly.
- *Time* refers to the time of day on which a regular meeting occurs for those committees that specified a meeting time in their rules.
- *Meet Only When in Session* refers to committees that provided in their rules that the regular meeting would be held only if a regular meeting day falls on a day when the Senate is in session.
- *Chair May Direct Otherwise* refers to the authority of the chair of a committee to cancel or to change the date or time of the committee's regular meeting at his or her discretion.

Table 1. Regular Meeting Days, Senate Committees' Rules, 114th Congress

(day, time, and chair's discretion to change a regular meeting)

Committee	Day												Time	Meet Only When in Session	Chair May Direct Otherwise
	Tuesday				Wednesday				Thursday						
	1st	2nd	3rd	4th	1st	2nd	3rd	4th	1st	2nd	3rd	4th			
Agriculture, Nutrition, & Forestry					✓		✓							✓	
Appropriations															[a]
Armed Services	✓[b]	✓	✓	✓					✓	✓	✓	✓		✓	✓[c]
Banking, Housing, & Urban Affairs				✓										✓	✓[d]
Budget									✓						
Commerce, Science, & Transportation					✓		✓								
Energy & Natural Resources											✓			✓	✓[e]
Environment & Public Works									✓[f]		✓[f]		10 a.m.		
Finance		✓[f]		✓[f]											
Foreign Relations	✓	✓	✓	✓											✓
Health, Education, Labor, & Pensions						✓		✓					10 a.m.		
Homeland Security & Governmental Affairs					✓									✓	✓
Judiciary									✓	✓	✓	✓	10 a.m.	✓	✓
Rules & Administration						✓		✓					10 a.m.		
Small Business & Entrepreneurship									✓						✓

Committee	Day												Time	Meet Only When in Session	Chair May Direct Otherwise
	Tuesday				Wednesday				Thursday						
	1st	2nd	3rd	4th	1st	2nd	3rd	4th	1st	2nd	3rd	4th			
Veterans' Affairs					✓										✓
Indian Affairs					g				g					✓	✓[e]
Intelligence	✓[h]		✓												✓

Source: Prepared by the authors based on a review of Senate committees' rules, 114th Congress.

a. Exempted from the rule requiring a regular meeting day; the committee rule provided that the committee meet at the call of the chair.

b. The committee must meet at least once a month when the Senate is in session.

c. The chair could change a regular meeting after consulting the ranking minority member.

d. The committee was not required to meet on the regular meeting day if it met previously during the month. This decision was at the discretion of the chair.

e. The chair could set another day for the "convenience of Members."

f. The regular committee meeting should be canceled if there is no business before the committee.

g. "... shall meet Wednesday/Thursday ..."

h. The committee's rule stated that the regular meeting day would be "every other Tuesday of each month."

Additional Committee Meetings

Senate Rule

A Senate rule authorizes each committee chair to call additional meetings "as [the chair] may deem necessary." (Rule XXVI, paragraph 3.)

(See also, above, "Subcommittees' Scheduling of Meetings and Hearings.")

Notice of Meetings

On Adding Agenda Items

A rule of the Energy and Natural Resources Committee allowed a committee member through a written request to the chair to place legislation, a nomination, or another matter on the agenda of the committee's next business meeting. The request must be made at least one week prior to the meeting. The rule also stated that the chair could place legislation, a nomination, or another matter on the committee's agenda in the absence of a request. Once an agenda was published, three days before a meeting, no item could be added except by approval of a majority of members. The rule required the committee staff director to promptly notify absent members of action taken by the committee on any matter not on the published agenda.

The Finance Committee's rules stated that notification of a meeting must include a written agenda and materials related to it prepared by the committee staff. After the notice of a meeting had been distributed, items not germane to the agenda may be considered only if two-thirds of the members present at the meeting agreed to their consideration.

The Rules and Administration Committee's rules indicated that agendas for meetings must be sent to committee members and made available to the public at least one day prior to the meeting. The agenda should list separate items of legislative and committee business. Members were permitted to discuss "appropriate" non-agenda topics during a committee meeting. Another rule provided that, after the chair and ranking minority member, speaking order would be by order of members' arrival unless the chair directed otherwise.

A rule of the Indian Affairs Committee stated that a legislative measure or subject must be included in a meeting agenda if a member filed a written request with the chair of the committee at least one week prior to a meeting. The rule also provided that this right did not limit the chair's authority to add an item to the agenda. If action was taken on an item not on the published agenda, the clerk must promptly notify all members who were absent from the meeting.

On Late Notices

The Homeland Security and Governmental Affairs and Veterans' Affairs Committees' rules stated that written notices of meetings, which may be in electronic form, must be accompanied by an agenda of the items to be considered at the meeting. If the notice and agenda are not able to be provided to committee members in the required time frame due to "unforeseen requirements or committee business," then the notice, agenda, and any revisions to the agenda must be communicated to committee members as soon as possible. The Homeland Security and Governmental Affairs Committee's rules specified that communication of the agenda could be done via telephone or other means in these circumstances. The Veterans' Affairs Committee's rules stated that a late notice could be given by the quickest appropriate means. Both committees'

rules noted that the appropriate staff assistants of committee members could also be notified of a meeting and its agenda.

The Veterans' Affairs Committee's rule required the committee to notify the Office of the Senate Daily Digest of its scheduling or cancellation of a meeting.

On Postponing Agenda Items

The Judiciary Committee had a provision in its rules that permitted any member, or the chair on his or her own initiative, to postpone any measure, nomination, or other matter on the committee's agenda until the next meeting or for one week, whichever occurred later.

On Parliamentary Formalities

A rule of the Foreign Relations Committee provided that committee proceedings in meetings on legislation, nominations, or other matters were to be conducted "without resort to the formalities of parliamentary procedure and with due regard for the views of all members." Issues in procedure were to be resolved by the chair, in consultation with the ranking minority member. The chair, in consultation with the ranking minority member, could also propose special procedures for the committee's consideration of a specific matter.

On the Relationship of the Chair and Ranking Minority Member

A unique rule of the Homeland Security and Governmental Affairs Committee directed the chair and ranking minority member to "keep each other apprised of hearings, investigations, and other Committee business."

On Staff Preparation for Meetings

The Intelligence Committee's rules stated that committee staff members designated by the chair and vice chair must brief committee members to assist the members in preparing for a meeting and determining the agenda. For a briefing, a member could request a list of all materials pertinent to the meeting that the committee had obtained. The rules also instructed the staff director and minority staff director to recommend "testimony, papers, and other materials" that the chair and vice chair could present at a meeting.

Explanation of Table 2: Additional Meeting Requirements, Senate Committees' Rules, 114th Congress

Table 2 compares committees' rules on the scheduling of additional and special meetings in the 114th Congress across the 16 standing Senate committees and the 2 additional permanent Senate committees with legislative authority. The 16 standing committees are listed in alphabetical order in the left-most column, and the 2 additional permanent committees are listed below. The 2 rows of the heading contain key terms describing the committees' rules, as explained immediately below. A check in a box indicates that a committee adopted a rule or a closely related variation on it. An empty box indicates that a committee did not address that subject in its rules. Certain checks and boxes are footnoted to offer additional detail on a particular committee's rule. In some cases, a single footnote is used to give the same additional detail for the rule of more than one committee. (See additional information on committees' rules for markups in **Table 7**.)

The following list explains the headings in **Table 2**:

- *Additional Meetings* refers to whether the chair or, alternately, the chair after consultation with the ranking minority member could call an additional meeting of the committee.
- *Special Meeting* refers to the authority of committee members to force additional meetings. (For further explanation of the Senate rule, see, below, "Meetings Initiated by Committee Members.")
- *Notice Requirements* refers to the time requirements for advance distribution of a meeting notice.
- *Time* refers to the amount of time in advance of an additional committee meeting that committee members must be notified of the meeting.
- *Agenda* refers to whether or not a committee's rules required a meeting agenda in addition to prior notification of a meeting. Unless otherwise noted, the time requirement for a meeting agenda was identical to the time requirement for a meeting notification.

Table 2. Additional Meeting Requirements, Senate Committees' Rules, 114th Congress

(scheduling authority and notice requirements)

Committee	Additional Meetings		Special Meetings[a]	Notice Requirements	
	Chair	Chair after Consulting with Ranking Minority Member		Time	Agenda
Agriculture, Nutrition, & Forestry		✓	✓	24 hours[b]; 48 hours if not in DC[b]	
Appropriations	✓				
Armed Services		✓	✓		
Banking, Housing, & Urban Affairs					
Budget	✓			72 hours	✓
Commerce, Science, & Transportation	✓		✓		
Energy & Natural Resources	✓			3 days	✓[v]
Environment & Public Works		✓		72 hours[c]	✓[d]
Finance		✓[e]	✓	48 hours[f]	✓[g]
Foreign Relations	✓		✓	1 week[h]	
Health, Education, Labor, & Pensions	✓			1 week[i]	
Homeland Security & Governmental Affairs	✓		✓	5 days[j,k,l]	✓[m]
Judiciary	✓	[n]	✓	3 days	✓[o]

Committee	Additional Meetings		Special Meetings[a]	Notice Requirements	
	Chair	Chair after Consulting with Ranking Minority Member		Time	Agenda
Rules & Administration	✓		✓	1 week[p]	✓[q]
Small Business & Entrepreneurship	✓		✓	3 business days	
Veterans' Affairs	✓[r]		✓	72 hours[s,l,t]	✓
Indian Affairs	✓			3 days[u]	✓[d,v]
Intelligence	✓[w]		[x]	24 hours[b]; 48 hours if not in DC[b]	[y]

Source: Prepared by the authors based on a review of Senate committees' rules, 114th Congress.

a. Committee rules by quotation or reference provided that a special meeting may be called by a majority of the members of the committee, pursuant to the provisions of Rule XXVI, paragraph 3. The rule nonetheless applies to all committees.

b. "... except in extraordinary circumstances ..."

c. If 72 hours' notice would expire on a weekend day, notice must be provided by close of business on Friday preceding the weekend. The rule also stated that the chair of the committee or a subcommittee, with the concurrence, respectively, of the committee or subcommittee ranking minority member, could change notice and filing requirements to "meet special circumstances."

d. The rule indicated that the text of agenda items must also be provided.

e. The ranking majority member of the committee may call a meeting in the absence of the chair, provided the chair delegated authority to do so to that member.

f. Unless an "emergency situation," as determined by the chair, required a meeting to be scheduled on shorter notice.

g. Materials prepared by committee staff relating to the agenda must accompany the agenda. After notice, a nongermane agenda item could be considered only if two-thirds of members present agreed to its consideration.

h. Unless the chair in consultation with the ranking minority member determined there was good cause to begin the meeting sooner.

i. For markup sessions, the text of any bill or joint resolution must be distributed electronically.

j. If the five-day minimum for advance notice could not be achieved, members of the committee must be contacted by telephone or otherwise "as soon as practicable" about the meeting and agenda or revisions to the agenda.

k. Not including Saturdays, Sundays, and federal holidays when the Senate was not in session.

l. Notification could be by electronic message.

m. In the event that the meeting agenda was not timely delivered, it must be delivered to the members of the committee as soon as possible.

n. "... or in the alternative with the consent of the Ranking Minority Member[.]" This rule required the consent of the ranking minority member, not a consultation between the chair and ranking minority member.

o. At the request of any member or at the initiative of the chair, any measure, nomination, or other matter on the committee's agenda could be postponed until the next meeting or for one week, whichever occurred later.

p. Committee staff would telephone or email a reminder to members of the committee or appropriate staff.

q. Meeting agendas required only one-day advance notice. At a meeting, any member could discuss any "appropriate non-agenda item."

r. An additional meeting could also be scheduled following a majority vote of the committee.

s. Not including Saturdays, Sundays, and federal holidays.

t. If the 72-hour notice was not achievable, members of the committee should be contacted by the quickest means possible and furnished with an agenda prior to the meeting.
u. Notice may be by email, but a paper copy must be provided to a member on request.
v. After the agenda was published, items could not be added except by approval of a majority of the committee. (See, above, "On Adding Agenda Items.")
w. The committee's rule allowed the chair to delegate this authority to another committee member.
x. The committee's rule repeated the Senate rule allowing members to initiate the call of a meeting but required five rather than three members to request a special meeting; if the chair did not call a meeting within seven days, these five members could file a written notice with the clerk calling the meeting.
y. Although the committee's rules do not specifically mention an agenda, staff were directed to brief members in advance of a meeting to prepare them for it. (See, immediately above, "On Staff Preparation for Meetings.")

Meetings Initiated by Committee Members

Senate Rule

Rule XXVI, paragraph 3 allows a majority of a committee's membership to initiate the convening of a "special meeting." Under this rule, any three members of a committee may seek a special meeting by filing in the committee office a written request to the chair for a meeting. The clerk then notifies the chair. The chair has three calendar days to call the special meeting, which must be scheduled within seven calendar days after the request is filed. If the chair does not call the meeting, a majority of committee members may file a written notice in the committee office setting the date and hour of the special meeting. If a majority files the notice, the committee clerk is required to inform all committee members of the meeting, which is then held on the date and time identified in the notice.

Committees' Rules

As shown in **Table 2**, the Senate rule is reflected in many committees' rules. The rules of the Agriculture, Nutrition, and Forestry; Foreign Relations; Homeland Security and Governmental Affairs; and Small Business and Entrepreneurship Committees repeated the Senate rule's procedure for special meetings. The Intelligence Committee also repeated the Senate rule in its rules but required five members to make a request and allowed the same five members to call a meeting if the chair had not responded. The rules of the Armed Services; Commerce, Science, and Transportation; Finance; Judiciary; Rules and Administration; and Veterans' Affairs Committees referenced the Senate rule.

Adjournment

Rules of the Agriculture, Nutrition, and Forestry and Health, Education, Labor, and Pensions Committees allowed the committee or a subcommittee chair to adjourn a meeting if a quorum was not present within 15 minutes of the scheduled meeting time.

Presiding Officer

Senate Rule

If the chair of a committee is not present at a regular, additional, or special meeting, the ranking majority member present presides (Rule XXVI, paragraph 3).

Committees' Rules

The Armed Services Committee's rules stated that the chair of the committee was the presiding officer at all committee meetings and hearings. In the event of the chair's absence, the ranking majority member present at the meeting or hearing was to preside, unless the committee decided otherwise by majority vote.

The Environment and Public Works; Finance; and Veterans' Affairs Committees' rules designated the chair of the committee as the presiding officer at all committee meetings. In the event of the chair's absence, the ranking majority member present at the meeting was to preside. The rules of both the Environment and Public Works Committee and the Finance Committee allowed any member to chair a hearing. The rule of the Veterans' Affairs Committee authorized the chair to appoint a member to act in his or her stead.

In addition to providing that the chair or ranking majority member presides at committee or subcommittee meetings, the rule of the Health, Education, Labor, and Pensions Committee allowed the committee or a subcommittee chair to designate the ranking minority member to preside at committee or subcommittee hearings, respectively.

The Homeland Security and Governmental Affairs Committee's rule stated that the chair of the committee was the presiding officer at all committee meetings and hearings. In the event of the chair's absence, the chair was to designate a temporary chair. In the event that the chair or the designated member had not arrived within 10 minutes after the scheduled start of a meeting or hearing, the ranking majority member present was to preside until the chair's arrival. In the event that there was not a majority member present, the ranking minority member present, with prior approval of the chair, could preside until a member of the majority arrived.

A rule of the Small Business and Entrepreneurship Committee provided that the chair would designate another member to preside in the chair's absence at a meeting or hearing and authorized the ranking minority member to designate a minority member to act in the ranking minority member's stead at a meeting or hearing. The clerk was to be notified of such a designation.

The rule of the Intelligence Committee implemented the standing order[18] creating the committee to provide that the chair, selected by the Senate majority leader, presided but, in the chair's absence, the vice chair of the committee, selected by the Senate minority leader, presided. If neither the chair nor the vice chair was present, the ranking majority-party member present would preside. If no majority-party member was present, the ranking minority-party member would preside.

Display Materials

A rule of the Budget Committee limited display of graphic materials (charts, photographs, or renderings) at meetings and hearings. The items were limited in size and in location in the room. A member's graphic materials could be displayed only while the member was speaking; only two items could be displayed at one time. (Also see the rule on exhibits of the Environment and Public Works Committee, under "Witnesses' Written Testimony.")

[18] The standing order, as amended, appears in § 81 of the *Senate Manual*.

Quorum Requirements

Senate Rules

Senate committees and subcommittees are authorized to fix the number of members who constitute a quorum for the transaction of business. This number may not be less than one-third of the membership. Committees and subcommittees, however, may establish a number less than one-third to constitute a quorum for the purpose of taking sworn testimony.[19] (Rule XXVI, paragraph 7(a).)

A committee may not report a measure or matter unless a majority of the committee is "physically present." (Rule XXVI, paragraph 7(a).) A rule requiring that a vote to report a measure appear in the committee report on that measure also provides that the rule does not curtail the power of a committee to adopt rules allowing a lesser quorum on an action other than reporting a measure or matter. (Rule XXVI, paragraph 7(c).)

Committees' Rules

Under Senate precedents, proxies may not be used to establish a quorum.[20] The Armed Services; Budget; Commerce, Science, and Transportation; Energy and Natural Resources; Homeland Security and Governmental Affairs; Rules and Administration; Small Business and Entrepreneurship; Indian Affairs; and Intelligence Committees specifically disallowed proxies from being counted in establishing a quorum.

(See also, above, "On Scheduling Procedures and Quorums" related to committees' rules for their subcommittees.)

Explanation of Table 3: Committee Quorum Requirements, Senate Committees' Rules, 114th Congress

Table 3 compares committees' rules in the 114th Congress on the quorum requirements across the 16 standing Senate committees and the 2 additional permanent Senate committees with legislative authority. The 16 standing committees are listed in alphabetical order in the left-most column, and the 2 additional permanent committees are listed below. The first 2 rows of the heading contain key terms describing the committees' rules, as explained immediately below. A check in a box indicates that a committee adopted a rule or a closely related variation on it. An empty box indicates that a committee did not address that subject in its rules. Certain checks and boxes are footnoted to offer additional detail on a particular committee's rule. In some cases, a single footnote is used to give additional detail for the same rule of more than one committee.

The following list explains the headings in **Table 3**:

- *Testimony* refers to the number of committee members composing a quorum to take testimony. Some committees specified that different quorums were needed to receive sworn and unsworn testimony; others had only one quorum requirement for testimony.

[19] See CRS Report 98-775, *Quorum Requirements in the Senate: Committee and Chamber*, coordinated by Elizabeth Rybicki.

[20] *Riddick's Senate Procedure*, p. 410.

- *Business* refers to the number of committee members composing a quorum to conduct business.
- *Reporting* refers to the number of committee members composing a quorum to report measures or matters to the Senate.

Table 3. Committee Quorum Requirements, Senate Committees' Rules, 114th Congress

(testimony, business, and reporting)

Committee	Testimony		Business	Reporting
	Sworn	Unsworn		
Agriculture, Nutrition, & Forestry	1		1/3[a]	Majority[b]
Appropriations	3[c]	1	1/3	Majority
Armed Services	3[d,e]		9[d] or Majority	Majority
Banking, Housing, & Urban Affairs	1[f]		Majority[g]	Majority[b]
Budget	1		1/3	Majority
Commerce, Science, & Transportation	1		1/3[h]	Majority[d]
Energy & Natural Resources	1		8	12
Environment & Public Works	1		7[i,j,k]	Majority
Finance	1		1/3[a]	Majority[b]
Foreign Relations	1		1/3[a]	Majority[a,b]
Health, Education, Labor, & Pensions	3[l,m]	1[n]	1/3[l,o]	Majority[p]
Homeland Security & Governmental Affairs[q]	1		1/3[d]	Majority[b]
Judiciary	1		7[r], 9[s]	Majority[b]
Rules & Administration	2[t]	1	1/3[u]	Majority
Small Business & Entrepreneurship	1		1/3[d,u]	Majority
Veterans' Affairs	1		5[d,v]	8
Indian Affairs	1		Majority[w]	Majority[x]
Intelligence	1		1/3[y]	Majority[b]

Source: Prepared by the authors based on a review of Senate committees' rules, 114th Congress.

a. Included one majority member and one minority member.
b. Required a majority to be actually present and a majority of those present to concur.
c. A subcommittee required only one member for a quorum to take sworn testimony.
d. Included one minority member.
e. Unless otherwise ordered by a majority of the full committee.
f. Unless otherwise provided by Senate rules or committee order.

g. A markup session of the committee or a subcommittee could not be called to order unless a majority was actually present.
h. The committee required a majority of members, at least one of whom was a minority member, for committee authorization of subpoenas when the chair and ranking minority member did not concur. (See "Subpoenas," below.)
i. Included two minority members.
j. Once a quorum had been established, the committee or subcommittee could continue to conduct business.
k. Also the quorum to approve a subpoena or a committee resolution.
l. Any quorum of less than a majority of the committee must include one majority member and one minority member.
m. Quorum requirement of three members also applied for a witness appearing pursuant to a subpoena. By concurrence of the chair and ranking minority member, one committee member could take testimony of sworn witnesses and those appearing pursuant to a subpoena.
n. For one member to constitute a quorum, the chair of the committee or subcommittee must first have granted approval.
o. Subcommittees required a majority of subcommittee members for a quorum.
p. Although the committee's rule on reporting by the committee followed the Senate's rule, the committee had a specific rule applicable to subcommittee reporting. (See, above, "Subcommittees' Reporting or Discharge.")
q. Subcommittees could establish their own quorums.
r. Constituted a quorum for the *discussion* of business.
s. Constituted a quorum for the *transaction* of business when the number included two minority members.
t. Once a quorum was established, one member could continue to take sworn testimony.
u. Specifically allowed for action on amendments.
v. If business could not be transacted due to the absence of a minority member needed to establish a quorum, the matter being considered laid over for one calendar day. If the presence of a minority member was not then obtained, business could be transacted by the appropriate quorum.
w. A quorum was presumed unless the absence of a quorum was noted by a member.
x. The committee rule allowed a measure to be reported without a recorded vote, unless a member objected.
y. "... decisions of the Committee shall be by a majority vote of the members present and voting."

Attendance

Member Attendance

The Agriculture, Nutrition, and Forestry and Judiciary Committees each had a rule on the attendance of members in committee and subcommittee business meetings and hearings. The rules stated that official attendance would be kept of all markup and executive sessions (Agriculture) and business meetings (Judiciary) by the committee or subcommittee clerk, respectively. However, attendance would be taken for hearings only if the chair and ranking minority member of the committee or respective subcommittee notified members at least 48 hours in advance that attendance would be taken.

Rules of the Agriculture, Nutrition, and Forestry and Health, Education, Labor, and Pensions Committees allowed the committee or a subcommittee chair to adjourn a meeting if a quorum was not present within 15 minutes of the scheduled meeting time. (See also, above, "Adjournment.")

Staff Attendance

At Closed Meetings

The Appropriations; Foreign Relations; and Health, Education, Labor, and Pensions Committees had rules regarding the attendance of professional staff members in closed sessions. The Appropriations Committee allowed the attendance of a committee staff member in a closed session only if the staff member had "a responsibility associated with the matter being considered"; this rule could be waived by unanimous consent.

The Foreign Relations Committee had separate rules on staff attendance at open and closed meetings. Each committee member was allowed to have one personal staff member accompany the Senator to committee meetings and be seated nearby. The chair or ranking minority member could authorize the attendance and seating of a staff member when the committee member was not present at a meeting or hearing. Each committee member could also designate personal staff holding, at a minimum, a top secret security clearance to attend closed sessions.[21] In addition, the majority leader and minority leader were each permitted to designate one member of their respective staffs, holding, at a minimum, a top secret security clearance, to attend closed sessions.[22] Staff members of Senators not serving on the committee were not allowed to attend closed sessions.

The majority and minority staff directors of the Foreign Relations Committee were to designate committee staff permitted to attend committee meetings. In addition, the committee could limit staff attendance at specific meetings by majority vote or by concurrence of the chair and ranking minority member.

The Health, Education, Labor, and Pensions Committee allowed committee staff and designated assistants to members of the committee to attend closed meetings. Other staff would be allowed by a decision of the committee or subcommittee chair.

(See also the discussion of Intelligence Committee rules on classified testimony and materials, below, "Rules of the Intelligence Committee.")

Present on Dais

The Banking, Housing, and Urban Affairs Committee restricted staff access to the dais at committee hearings. The committee's clerk was allowed on the dais, and each committee member could have one staff member accompany the member at an open or executive hearing. A member wishing to have a second staff member on the dais must make a request to the chair.

Open and Closed Meetings

Senate Rules

Senate committee and subcommittee meetings, including hearings, must be open to the public. (Rule XXVI, paragraph 5(b).)

[21] Other rules of the committee dealing with transcripts of closed sessions, classified information, and nondisclosure (Rules XII, XIII, and XIV) imposed additional conditions on staff attendance at closed sessions. The Intelligence Committee imposed conditions on its staff in its Rule X.

[22] Subject to the same additional conditions imposed on committee members' personal staff under committee rules.

A committee or subcommittee, however, may close a meeting or series of meetings on the "same subject" for up to 14 days, but only for 1 of 6 reasons. A motion must first be made and seconded for the committee or subcommittee to go into closed session to discuss whether the matters to be deliberated or the testimony to be taken requires the meeting to be closed. A record vote supported by a majority of the members of the committee or subcommittee then must occur in open session on a motion to close the meeting. The six reasons enumerated in Rule XXVI, paragraph 5(b) allowing a meeting to be closed are—

- "matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States" will be disclosed;
- matters related solely to committee staff or staff management and procedure will be discussed;
- deliberations or testimony "will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual";
- "the identity of any informer or law enforcement agent or ... any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement" will be revealed;
- deliberations or testimony "will disclose information relating to trade secrets of financial or commercial information pertaining specifically to a given person" if an act of Congress requires government officials to keep the information confidential or if the information was provided confidentially to the government (other than by an application of the person for a government financial or other benefit) and is required to be kept secret to "prevent undue injury to the competitive position" of the person; and
- matters required by other provisions of law or regulation to be kept confidential may be disclosed.

Committees' Rules

The Agriculture, Nutrition, and Forestry; Energy and Natural Resources; Environment and Public Works; Health, Education, Labor, and Pensions; Veterans' Affairs; and Intelligence Committees' rules required open meetings, but they did so by referencing by citation or summary the Senate rule on open and closed meetings.

The Armed Services; Budget; Commerce, Science, and Transportation; Foreign Relations; Homeland Security and Governmental Affairs; and Rules and Administration Committees essentially repeated the Senate rule in their committee rules.

The Finance Committee referenced the Senate rule in regard to its hearings. The Indian Affairs Committee's rule provided that a meeting or hearing could be closed by a majority vote.

A unique rule of the Foreign Relations Committee allowed a witness called to testify to submit a written request to the chair, not less than 24 hours in advance of appearing, for testimony to be given in open or closed session or for another procedure. The rule provided the chair with discretion to grant the request but required the chair to notify committee members of the request and its disposition. (See, below, "Confidential and Classified Testimony and Materials.")

(See also, above, "Staff Attendance.")

Disorder in Meetings

Senate Rule

A Senate rule directs the chair of a committee meeting, which is open to the public, to enforce order on the chair's own initiative and without a point of order being made. The rule condemns disorder and also demonstrations of approval or disapproval "indulged in by any person in attendance." If "necessary to maintain order," the chair is authorized to clear the meeting room. The committee is then authorized to act in closed session "for so long as there is doubt of the assurance of order." (Rule XXVI, paragraph 5(d).)

Committees' Rules

The Finance Committee had a rule on audience decorum at open hearings. Those in attendance were to conduct themselves with "dignity, decorum, courtesy, and propriety traditionally observed by the Senate." Acts of approval or disapproval were not allowed. Persons engaging in disruptive and other disorderly behavior were to be expelled.

The Health, Education, Labor, and Pensions and Veterans' Affairs Committees referenced the Senate rule in their rules on open and closed meetings. The Homeland Security and Governmental Affairs Committee included the Senate rule in its rules on open and closed meetings and hearings.

Broadcasting

Senate Rule

Any hearing that is open to the public may be broadcast by radio or television pursuant to rules that a committee or subcommittee may adopt. (Rule XXVI, paragraph 5(c).)

Explanation of Table 4: Meeting and Hearing Broadcasting Requirements, Senate Committees' Rules, 114th Congress

Table 4 compares committees' rules in the 114th Congress on the broadcasting requirements across the 16 standing Senate committees and the 2 additional permanent Senate committees with legislative authority. The 16 standing committees are listed in alphabetical order in the left-most column, and the 2 additional permanent committees are listed below. The 2 rows of the heading contain key terms describing the committees' rules, as explained immediately below. A check in the box indicates that a committee adopted a rule or a closely related variation on it. An empty box indicates that a committee did not address that subject in its rules. Certain checks and boxes are footnoted to offer additional detail on a particular committee's rule. In some cases, a single footnote is used to give the same additional detail for the rule of more than one committee.

The following list explains the headings in **Table 4**:

- *Media Type* refers to the type of broadcasting or recording specified in a committee's rule.
- *Authorization* refers to who may authorize broadcasting of a meeting or hearing.
- *Notification* refers to the time in advance that an intent to broadcast a meeting or hearing must be filed with the committee clerk.

Table 4. Meeting and Hearing Broadcasting Requirements, Senate Committees' Rules, 114th Congress

(media type, authorization, notification)

	Media Type					
	Television	**Radio**	**Still Photography**	**Other or Unspecified**	**Authorization**	**Notification**
Agriculture, Nutrition, & Forestry						
Appropriations	✓	✓	✓		[a]	
Armed Services						
Banking, Housing, & Urban Affairs						
Budget						
Commerce, Science, & Transportation	✓			✓	Chair and ranking minority member	
Energy & Natural Resources	✓[b]	✓	✓	✓[c]		
Environment & Public Works	✓[b]	✓		✓		5 p.m. of day prior
Finance[d]	✓[e,f]	✓			Chair	Noon of day prior
Foreign Relations						
Health, Education, Labor, & Pensions						
Homeland Security & Governmental Affairs	✓[g]	✓[g]	✓[g]			
Judiciary						
Rules & Administration						
Small Business & Entrepreneurship	✓[b]	✓		✓	Chair[h]	5 p.m. of day prior
Veterans' Affairs	✓[b]	✓	✓	✓	[i]	
Indian Affairs	✓[b]	✓	✓	✓		
Intelligence						

Source: Prepared by the authors based on a review of Senate committee rules, 114th Congress.

a. Any member could object to the broadcasting or photographing of a committee or subcommittee hearing. In the event of an objection, the matter would be referred to the committee for decision.

b. Equipment used cannot interfere with the seating, vision, or hearing of committee members and staff on the dais or disrupt the orderly process of the meeting or hearing.

c. The committee's rule included webcasting.

d. The rule appeared only with the committee's rule on hearings.

e. Broadcasting is to be conducted "unobtrusively" and by adherence to "standards of dignity, propriety, courtesy, and decorum traditionally observed by the Senate."

f. Necessary equipment may not be installed or removed while the committee is in session. Additional lighting may not be directed into the eyes of committee members or witnesses. Offending lighting must be extinguished at the request of a member or witness.
g. Subject to conditions the committee or subcommittee may impose.
h. Notice must be provided to the ranking minority member as soon as practicable.
i. The presiding officer of a meeting or hearing may terminate the use of recording equipment for good cause.

Hearing Procedures

Senate Rules

Senate committees and subcommittees have broad discretion under Senate rules to hold and to report to the Senate on hearings.[23] They may act during sessions, recesses, or adjournments of the Senate. They may subpoena witnesses and documents (discussed below at "Subpoenas"). They may conduct investigations into "any matter within [their] jurisdiction" (discussed below at "Investigations").[24] (Rule XXVI, paragraph 1.)

Senate committees, except the Appropriations and Budget Committees, are required to publicly announce the date, place, and subject of hearings no less than one week in advance of the hearing. The committee, however, may determine there is "good cause" to hold a hearing on less notice.[25] (Rule XXVI, paragraph 4(a).)

A Senate rule states that a committee or subcommittee may not meet after the two first hours that the Senate has been in session or, when the Senate is in session, later than 2:00 p.m. Special leave, however, may be granted by the majority leader and minority leader, followed by the announcement of the leaders' consent to the Senate.[26] The Appropriations and Budget Committees are exempt from the constraint in this rule. (Rule XXVI, paragraph 5(a).)

Committee practices also affect the conduct of hearings, for example, practices on opening statements and alternating between the parties in questioning. These practices are likely to be followed unless unanimous consent or another agreement is obtained to vary from the norm.

Committees are authorized to have hearing records printed and bound. (Rule XXVI, paragraph 10(a).) Committees are exhorted to "make every reasonable effort" to print hearings on a reported measure or matter so they are available to Senators prior to the Senate's consideration of the measure or matter.[27] (Rule XVII, paragraph 5.)

[23] For explanation of hearings, see CRS Report 98-317, *Types of Committee Hearings*, by Valerie Heitshusen; and CRS Report 98-489, *Senate Committee Hearings: Preparation*, by Valerie Heitshusen.

[24] For the Intelligence Committee, these authorities are included in the standing order creating the committee, as amended, appearing in § 81 of the *Senate Manual*. For the Indian Affairs Committee, these authorities are also included in the standing order creating the committee, appearing in § 83.2 of the *Senate Manual*.

[25] For additional explanation, see CRS Report 98-337, *Senate Committee Hearings: Scheduling and Notification*, by Valerie Heitshusen.

[26] The rule requires the majority leader or his designee to announce the time and place of each meeting to which he and the minority leader have given their consent. More typically, a designee of the majority leader requests unanimous consent that a list of committee meetings at the desk be approved. The *Congressional Record* reports a unanimous consent request for each committee meeting on the list, showing the date, time, and location.

[27] With ever-widening availability of full congressional hearings and meetings on the web, print publication of hearings has become less common.

Field Hearings

Field hearings are committee and subcommittee hearings held at a place not located on Capitol Hill, typically outside of Washington, DC. Their authorization is included in the Senate's rule authorizing committee and subcommittee hearings. Public announcement and other Senate rules apply to them in the same manner as they apply to hearings held on Capitol Hill.[28]

On Authorizing Field Hearings

The Armed Services Committee required hearings to be held in Washington, DC, unless a majority vote of the committee or respective subcommittee proposing to conduct the field hearing specifically authorized a hearing elsewhere.

The Banking, Housing, and Urban Affairs Committee's rule provided that a committee or subcommittee hearing may be scheduled outside of Washington, DC, only by agreement between the committee's or subcommittee's chair and ranking minority member or by a majority vote of the committee or subcommittee. In addition, such a subcommittee hearing may be scheduled only after consultation with the committee chair.

The Foreign Relations Committee disallowed subcommittees from holding hearings that incurred expenses without the prior approval of the chair or a decision of the full committee, unless funds had been specifically made available by the Senate.

A rule of the Commerce, Science, and Transportation Committee provided that a field hearing of the committee or a subcommittee could be scheduled only when authorized by the chair and ranking minority member of the committee.

The Small Business and Entrepreneurship Committee disallowed hearings outside of Washington, DC, unless the chair and ranking minority member or a majority of the committee authorized such a hearing. Consent could be given without a committee meeting but must have been given in writing.

Other Applicable Committee Rules

The Environment and Public Works Committee allowed its rule requiring witnesses to submit written testimony 48 hours in advance to be waived for field hearings, except for the written testimony of federal government witnesses.

A rule of the Energy and Natural Resources Committee allowed subcommittees to hold field hearings at the time of a full committee meeting or hearing.

The Intelligence Committee required 24 hours' notice for a meeting in Washington, DC, but 48 hours' notice for a meeting outside of Washington.

Committee and Minority Witness Selection

Senate Rule

A committee or subcommittee selects witnesses with the participation and approval of the chair, who formally invites witnesses.

[28] See CRS Report RS20928, *Field Hearings: Fact Sheet on Purposes, Rules, Regulations, and Guidelines*, by Valerie Heitshusen and R. Eric Petersen.

In addition, upon the request of a majority of minority committee members to the chair, the minority may call its own witnesses to testify for "at least one day" of the hearings on the measure or matter that is the subject of the committee's hearing. The request is to be made before the completion of the committee's hearing. The Appropriations Committee is exempted from this rule, which is sometimes referred to as the *minority witness rule*.[29] (Rule XXVI, paragraph 4(d).)

Committees' Rules

On Minority Witnesses

Committees typically operate with comity in witness selection. Some committees' rules specify the manner in which the majority and minority together select at least some witnesses.[30]

The Homeland Security and Governmental Affairs Committee repeated the minority witness rule in its rules. The Agriculture, Nutrition, and Forestry Committee also repeated the rule but indicated that the ranking minority member should make the request.

With regard to comity in committee rules on witness selection, the Armed Services; Finance; Foreign Relations; and Small Business and Entrepreneurship Committees each had a rule on calling minority witnesses. The Armed Services Committee required the chair of the committee or a subcommittee to consult with the respective committee or subcommittee ranking minority member prior to naming witnesses for a hearing.

The Finance Committee's rule exhorted staff scheduling witnesses to seek to "attain a balance of views early in the hearings." The rule also allowed each member of the committee to designate witnesses to testify. If a witness was unable to appear during a hearing's scheduled time, a special time would be set aside for the witness to testify if the member who selected the witnesses was available at that time to chair the hearing.

The Foreign Relations Committee allowed the ranking minority member of the committee or a subcommittee to call the same number of "non-governmental witnesses" as the chair to ensure that the hearing's subject matter was presented as "fully and fairly as possible." Another committee rule stated that the committee would consider requests to testify on a measure or matter pending before the committee.

The Small Business and Entrepreneurship Committee's rule directed the chair and ranking minority member to negotiate the number of witnesses for a hearing. In the absence of an agreement, the ratio of majority witnesses to minority witnesses would be 3:2 or 2:1.

Other Witness Rules

A provision of the rule of the Health, Education, Labor, and Pensions Committee on witness statements indicated that the committee or a subcommittee should, as far as practicable, use existing testimony on "measures similar to those before it for consideration." One of the guidelines appended to the committee's rules stated that the committee or a subcommittee should provide each member a list of witnesses at least three days prior to a hearing.

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[29] For additional explanation, see CRS Report RS22649, *Senate Committee Hearings: The "Minority Witness Rule"*, by Christopher M. Davis.

[30] For additional explanation, see CRS Report 98-336, *Senate Committee Hearings: Arranging Witnesses*, by Valerie Heitshusen.

A rule of the Intelligence Committee permitted the committee to consider requests to testify. Another rule required witnesses to receive "reasonable" notice of hearings and a copy of the committee's rules. The committee also had a unique rule for protecting the identity of witnesses, disallowing the name of any witness from being publicly released before or after the witness's appearance, unless the release was authorized by the chair. If the chair authorized release, the vice chair was to be notified as soon as "practicable." In no case was a witness's name to be released if doing so would disclose classified information. (See, below, "Confidential and Classified Testimony and Materials.")

(See also, below, "Counsel.")

Witnesses' Written Testimony

Senate Rule

A witness must file written testimony with the clerk of a committee no less than one day before a hearing. The chair and ranking minority member of the committee may waive this requirement for "good cause." The Appropriations Committee is exempt from the advance filing requirement.[31] (Rule XXVI, paragraph 4(b).)

Committees' Rules

The Banking, Housing, and Urban Affairs Committee required witnesses to provide written testimony and also a "brief summary" of the testimony. The rule limited the brief summary to three pages but allowed the written statement to be as "lengthy" as the witness desired and to contain "documents and addenda" that the witness wished to provide. The rule provided discretion to the chair of the committee or subcommittee on what portion of documents to include in the printed transcript of the hearings. The chair of a committee or subcommittee could exclude a witness for failure to file a statement and summary until the witness complied.

The Environment and Public Works Committee required written statements and renderings of exhibits proposed to be used at a hearing to be submitted 48 hours in advance. If a witness failed to comply with the requirement for submitting a written statement, the chair could exclude the witness's testimony. If a witness failed to submit a letter- or legal-paper-sized rendering of an exhibit, the witness would not be able to use the exhibit and the exhibit would be excluded from the hearing record. However, the committee allowed its rule requiring witnesses to submit written testimony 48 hours in advance to be waived for field hearings, except for the written testimony of federal government witnesses. (See also, above, "Display Materials.")

A rule of the Foreign Relations Committee provided that it would accept written statements of "reasonable length" by witnesses and also by interested persons unable to testify in person.

One of the guidelines appended to the Health, Education, Labor, and Pensions Committee's rules stated that the committee or subcommittee should urge witnesses to submit written testimony before the deadline in the committee's rules and distribute to members written statements received in advance of a hearing.

The Judiciary Committee's rule on written statements required witnesses to also submit their curriculum vitae. In addition, the committee had 2 different submission dates, depending on how

[31] For additional explanation, see CRS Report 98-392, *Senate Committee Hearings: Witness Testimony*, by Valerie Heitshusen.

far in advance a hearing was announced. If the hearing was announced 7 days in advance, written statements and curricula vitae were to be provided to the committee at least 24 hours prior to the hearing. If a hearing was announced 14 days in advance, written statements and curricula vitae were to be provided to the committee at least 48 hours prior to the hearing. If a witness failed to provide a written statement in a timely fashion, the committee's rule gave the chair 3 options: permit the witness to testify, disallow the witness from testifying, or permit the witness to respond to questions from the committee members but deny him or her the opportunity to deliver an opening statement.

The Small Business and Entrepreneurship Committee allowed testimony to be submitted for not less than two weeks following a hearing, unless the chair and ranking minority member agreed to another procedure.

Swearing In Witnesses

Witnesses may be sworn in before delivering their testimony. It is common for committees to require nominees to be sworn in (see, below, "Nominations") and to use sworn testimony in the conduct of oversight (see, below, "Oversight"), but it is less common to swear in witnesses in legislative hearings. Any Senator is authorized by law to swear in a witness.[32] It is a violation of law for a witness to make false statements to Congress, including its committees, whether the witness has been sworn in or not.[33]

The Agriculture, Nutrition, and Forestry; Energy and Natural Resources; and Indian Affairs Committees required a witness at a committee or a subcommittee hearing to be sworn in whenever the chair or ranking minority member "deems [it] necessary." The Intelligence Committee's rule was similar, allowing the chair or vice chair to direct that testimony be given under oath.

The Energy and Natural Resources Committee's rule also required witnesses to be sworn in when the chair or ranking minority member deemed it necessary and further provided that, once one or more witnesses were required to testify under oath, all witnesses at the hearing must testify under oath.

The Small Business and Entrepreneurship Committee's rule specifically provided authority to all members to administer the oath to a witness "testifying as to fact."

The Veterans' Affairs Committee's rule provided discretion to the chair to decide when it was "advisable" to swear in a witness. A rule of the Homeland Security and Governmental Affairs Committee also vested discretion in the chair.

[32] 2 U.S.C. § 191.

[33] 18 U.S.C. § 1001. For a succinct discussion of federal criminal laws pertaining to interference with congressional activities, see CRS Report RS22784, *Obstruction of Congress: An Abridged Overview of Federal Criminal Laws Relating to Interference with Congressional Activities*, by Charles Doyle. For a more extensive discussion, see CRS Report RL34304, *Obstruction of Congress: A Brief Overview of Federal Law Relating to Interference with Congressional Activities*, by Charles Doyle.

Staff-Prepared Summaries of Testimony

Senate Rules

A committee may require its staff to prepare, before a day's hearing, a digest of written testimony that has been filed with the committee's clerk. (Rule XXVI, paragraph 4(b).) A committee may require its staff, following a day's hearing, to prepare a summary of testimony delivered at the hearing. The summary, if approved by the chair and ranking minority member, may be printed as part of the hearing if the committee orders the hearing to be printed. (Rule XXVI, paragraph 4(c).)

Confidential and Classified Testimony and Materials

Senate Rules

The authority of committees to conduct closed hearings and meetings was discussed above (see "Open and Closed Meetings"), and Senate committees keep testimony and materials confidential under additional authorities. Rule XXVI, paragraph 5(b) authorizes closed sessions, for example, and paragraph 5(e) exempts the recording or transcript of a closed session from the requirement that Senate committees make recordings and transcripts publicly available within 21 days. Procedures for handling classified information are covered in the *United States Senate Security Manual* issued by the Office of Senate Security. In addition, Rule XXIX, paragraph 5 subjects a Senator to expulsion and an officer or employee of the Senate to dismissal for disclosing "secret or confidential business or proceedings of the Senate, including the business and proceedings of the committees [and] subcommittees.... "[34]

Committees' Rules

The Armed Services and Banking, Housing, and Urban Affairs Committees each had a rule on the release of confidential testimony taken in a closed committee hearing and confidential materials received in such a hearing. The rules stated that the testimony and materials would not be made public in whole, in part, or in summary unless authorized by a majority vote of the committee or subcommittee. The rules of the Energy and Natural Resources; Health, Education, Labor, and Pensions; Small Business and Entrepreneurship; and Indian Affairs Committees were the same but used the word "majority" rather than the phrase "majority vote." The Energy Committee also specifically required approval to occur at a business meeting called for that purpose.

The Banking Committee, in addition, allowed confidential testimony taken by the committee or a subcommittee to be released when authorized by the committee or subcommittee chair and the respective ranking minority member.

[34] Rule XXIX, paragraph 5 was amended to specifically cover committees and employees following a Senate investigation of information leaks during the confirmation hearings on Clarence Thomas to be a Justice of the Supreme Court and during the Senate's so-called Keating Five investigation. For background, see Senator George Mitchell, "Unanimous-Consent Agreement—S. 596," Senate debate, *Congressional Record*, vol. 137, part 19 (October 23, 1991), p. 28062; "Resolution Relative to the Appointment of Special Counsel—Senate Resolution 202," Senate debate, *Congressional Record*, vol. 137, part 19 (October 24, 1991), pp. 28416-28427; and "Amending Paragraph 5 of Rule XXIX of the Standing Rules of the Senate," Senate debate, *Congressional Record*, vol. 138, part 23 (October 8, 1992), pp. 34242-34243.

The record of an executive session of the Finance Committee could be made public only by majority vote of the committee and only after members had the opportunity to correct grammatical errors or make corrections to "accurately reflect statements made."

The Small Business and Entrepreneurship Committee's rule allowed confidential materials or testimony submitted to the committee to be disclosed if authorized by the chair with the concurrence of the ranking minority member. Another rule also provided that an individual, asserting the confidentiality of an item, should clearly designate the assertion on the item's face; designation, however, would not prevent the item's use in committee business.

Rules of the Foreign Relations Committee

The Foreign Relations Committee allowed a witness called to testify to submit a written request to the chair, not less than 24 hours in advance of appearing, to provide his or her testimony in open or closed session or by another procedure. The rule provided the chair with discretion to grant the request but required the chair to notify committee members of the request and its disposition.

The rules of the Foreign Relations Committee also included provisions dealing with classified or restricted transcripts, declassification of transcripts and noncurrent records, and classified or restricted information. The rule on classified or restricted transcripts required the committee's chief clerk to maintain security, with the transcripts' handling consistent with requirements of the *United States Senate Security Manual*. Classified transcripts could not be taken from committee offices, except for declassification or archiving; could not be used for note-taking or quotation; and were subject to the same restrictions as the meeting for which the transcription was made, subject to permission of the chair and ranking minority member. The rule listed persons allowed access and the terms of access, subject to additional restrictions imposed by the chair with the concurrence of the ranking minority member. For example, Senators not on the committee were allowed access in the committee's offices with the chair's permission. In addition, committee members and staff were prohibited from discussing the proceedings of closed meetings with anyone not authorized to attend the meeting. To authorize a discussion, committee members could also seek permission from the chair or ranking minority member and staff could seek permission from the majority or minority staff director. A record was to be kept of authorized communications.

The declassification rule required noncurrent records to be handled consistent with Senate Rule XI and a standing order of the Senate.[35] Classified transcripts transferred to the National Archives and Records Administration could not be made publicly available until declassified pursuant to applicable laws and executive orders. A classified transcript could be declassified in less time than provided in the standing order when the chair, with the concurrence of the ranking minority member, initiated declassification; current members of the committee who participated in a meeting were notified of, and had no objection to, a proposed declassification, subject to a majority vote of the committee to overrule objections; and executive agencies that participated in the meeting or provided classified information consented to declassification.

The classified information rule of the Foreign Relations Committee appointed the committee's chief clerk as the committee's security manager, serving also as liaison to the Office of Senate Security. The staff director could make administrative regulations necessary for carrying out the provisions of the committee's rule. All classified information was to be handled consistent with a

[35] The standing order appears in § 135 of the *Senate Manual*.

standing order of the Senate[36] and the *United States Senate Security Manual*. Classified material may not be carried between Senate offices, except by staff members specifically authorized by the security manager, and Senators' and staff's access would be guided by a "need-to-know" standard consistent with their committee duties.

Rules of the Intelligence Committee

The Intelligence Committee's rules on its handling of classified and sensitive material were lengthy, reflecting the extensive provisions in the standing order creating the committee and the committee's unique responsibilities.[37] In addition to classified documents, the committee's rule defined a class of documents as "committee sensitive," related to the committee's work, to be handled in the same manner as classified documents. Documents were to be kept in secure containers, copying was generally prohibited, and documents could not be left elsewhere overnight. Committee members could review any document before its disposition.[38]

Access to the committee offices was limited, requiring identification. Committee members had access to all information. The staff director was to maintain a document registry to control and account for document access. Committee staff had access to information based on appropriate security clearances and a need-to-know criterion. The committee could make classified information available to other committees and to Senators not on the committee by following procedures in the rules. Classified information could be disclosed to executive branch officials, members and staff of the House Permanent Select Committee on Intelligence, and Senators and Senate staff with appropriate security clearances on a need-to-know basis and for furtherance of the committee's legislative and oversight duties. Otherwise, classified information could be shared with persons with appropriate security clearances and on a need-to-know basis on the approval of the chair and vice chair or the staff director and minority staff director. A failure to adhere to these rules would be referred to the Ethics Committee, following notification of the majority and minority leaders.

The committee had a unique rule for protecting the identity of witnesses, disallowing the name of any witness from being publicly released before or after the witness's appearance, unless the chair authorized the release. If the chair authorized release, the vice chair was to be notified as soon as "practicable." In no case was a witness's name to be released if doing so would disclose classified information.

Attendance of individuals not serving on the committee or its staff was to be "kept at a minimum" and limited to those with appropriate security clearances and a need to know the information. Notes made at the meeting could be secured and made available consistent with the committee's security procedures.

(See also, below, "Transcripts of Meetings and Printed Hearings" and, immediately below, "Correcting Transcripts.")

[36] The standing order appears in § 139 of the *Senate Manual*.

[37] The standing order, as amended, appears in § 81 of the *Senate Manual*.

[38] Procedures appear in the standing order for the committee to follow to publicly release classified information. Ibid.

Correcting Transcripts

On Correcting Transcripts

The Armed Services Committee in its rules allowed witnesses giving unsworn testimony to receive a copy of the transcript to make "minor grammatical corrections." Substantive changes were not permitted. The chair was authorized to decide any question.

A rule of the Commerce, Science, and Transportation Committee provided that testimony must be made available for inspection by the witness or the witness's counsel, under the committee's supervision. The committee clerk could set a time limit for inspection. The witness may request transcription and grammatical errors to be corrected. The witness may also identify errors of fact by submitting a sworn statement to the facts, with a request that the statement be attached to the transcript. The chair or a committee staff member designated by the chair may rule on such a request. The rule also allowed a witness to purchase a transcript of testimony given in public session or a transcript of portions of testimony given in closed session or a deposition that subsequently became part of the record of a public session.

The record of an executive session of the Finance Committee could be made public only by majority vote of the committee and only after members had the opportunity to correct grammatical errors or make corrections to "accurately reflect statements made."

The Homeland Security and Governmental Affairs Committee's rule required an electronic or stenographic record of witnesses' testimony, whether the testimony occurred in an open or closed hearing. A witness's testimony must be made available for inspection by the witness or the witness's counsel, within time limits set by the committee's clerk. A witness could request the correction of errors in transcription or grammar, subject to a ruling by the chair or a staff member designated by the chair. A witness could purchase a copy of testimony given in an open hearing or that portion of testimony given in a closed meeting but made a part of a public hearing.

The Intelligence Committee's rule on correcting transcripts allowed a witness, who could be accompanied by counsel, to review a transcript in the committee's offices. The witness could submit grammatical and "minor editing" changes in writing within five days of the day when the transcript was made available to the witness. Questions on the corrections would be decided by the chair. If a witness's testimony given in executive session was subsequently made public, the portions made public would be provided to the witness at the witness's expense.

On Reputational Testimony

A rule of the Energy and Natural Resources Committee allowed a person, who believed that testimony or other evidence presented at an open hearing tended to defame the individual or to adversely affect the individual's reputation, to file with the committee for its consideration and action a "sworn statement of facts relevant to such testimony or evidence."

A Homeland Security and Governmental Affairs Committee rule provided a means of redress for an individual named or specifically identified in an open or closed meeting who believed that evidence or a committee member's or staff member's comments impugned his or her character or adversely affected his or her reputation. The individual could file a sworn statement of facts relevant to the evidence or comment that would be considered for inclusion in the hearing record. The individual could request an opportunity to appear before the committee or submit questions to be used to cross-examine other witnesses. Such requests would be considered by the committee.

The Indian Affairs Committee had a rule on defamatory statements. The committee permitted a person who believed that he or she had been defamed, or who believed that his or her reputation had been adversely affected, to file for the committee's consideration a sworn statement of facts related to testimony or evidence presented. A person could file a statement if he or she was so named or identified in an open meeting or the subject of testimony or evidence so presented in an open meeting.

The Intelligence Committee also had a rule on reputational testimony. Regarding testimony or evidence presented at a public hearing or a comment by a committee member or staff member that an individual believed adversely affected his or her reputation, the committee's rule allowed the person (1) to request an opportunity to testify, (2) to file a sworn statement of facts, or (3) to submit in writing questions proposed for examining witnesses. The committee, under the rule, could take action it deemed "appropriate."

(See also, below, "Transcripts of Meetings and Printed Hearings" and, immediately above, "Confidential and Classified Testimony and Materials.")

Committees' Other Hearing Rules

The Small Business and Entrepreneurship Committee in its rules formalized the process for committee members to propose to the chair the holding of hearings. The chair could initiate a hearing or a hearing could be held upon the chair's approval of a request from a committee member. If the ranking minority member made a request, the rule directed the chair to respond with a decision within seven business days.

The Veterans' Affairs Committee's hearing rules stated that rules governing meetings also governed hearings, except as otherwise provided.

(See also, above, "Subcommittees' Scheduling of Meetings and Hearings.")

Explanation of Table 5: Committee Hearing Requirements, Senate Committees' Rules, 114th Congress

Table 5 compares committees' rules in the 114th Congress on the hearing requirements across the 16 standing Senate committees and the 2 additional permanent Senate committees with legislative authority. The 16 standing committees are listed in alphabetical order in the left-most column, and the 2 additional permanent committees are listed below. The 2 rows of the heading contain key terms describing the committees' rules, as explained immediately below. A check in a box indicates that a committee adopted a rule or a closely related variation on it. An empty box indicates that a committee did not address that subject in its rules. Certain checks and boxes are footnoted to offer additional detail on a particular committee's rule. In some cases, a single footnote is used to give the same additional detail for the rule of more than one committee.

The following list explains the headings in **Table 5**:

- *Notification* refers to the minimum amount of time necessary to notify members of a committee prior to holding a hearing.
- *Written Witness Statements* refers to the minimum amount of time allowed prior to a hearing for a witness to submit his or her written statement. Additionally, the table shows the number of copies of a written statement required by a committee.
- *Recognition Limitations* refers to the amount of time that a member may be recognized for questioning a witness and the amount of time a witness may be recognized for summarizing his or her written statement.

Table 5. Committee Hearing Requirements, Senate Committees' Rules, 114th Congress

(notification, written witness statements, recognition limitations)

Committee	Notification	Written Witness Statements		Recognition Limitations	
		Time	Number of Copies	Members	Witnesses
Agriculture, Nutrition, & Forestry	1 week[a,b,c]	24 hours	Decision of chair	5 minutes[d]	
Appropriations					
Armed Services	1 week[e,f]	48 hours[g,h]	[i]		
Banking, Housing, & Urban Affairs		24 hours[j]	75[k]	5 or 10 minutes[l,m]	10 minutes[n]
Budget	1 week[g]	24 hours[g]		[o]	
Commerce, Science, & Transportation		24 hours[j]	Decision of chair		
Energy & Natural Resources	1 week[a,b,c]	24 hours[p]	Decision of chair	5 minutes[q]	
Environment & Public Works	1 week[g,c]	48 hours[j,r,s]	100		[t]
Finance	1 week	2 days[k,u]			10 minutes[v,w]
Foreign Relations	1 week[x]	24 hours[g,y]			10 minutes[z]
Health, Education, Labor, & Pensions	1 week[aa]	24 hours[g,bb]			[v,z]
Homeland Security & Governmental Affairs	1 week[e]	48 hours[g,y]			
Judiciary	7 calendar days[g]	24 or 48 hours[cc,j]	Decision of chair		
Rules & Administration		3 business days[dd,g]		5 minutes[ee,ff]	5 minutes[gg]
Small Business & Entrepreneurship	5 business days[hh]	2 business days[ii]		[l]	
Veterans' Affairs	1 week	48 hours[h,jj]	40		[z]

Committee	Notification	Written Witness Statements		Recognition Limitations	
		Time	Number of Copies	Members	Witnesses
Indian Affairs	1 week[a,ii,b,c]	48 hours[y,kk]		5 minutes[ll]	
Intelligence		48 hours[mm]		[l]	[nn]

Source: Prepared by the authors based on a review of Senate committees' rules, 114th Congress.

a. The one-week notification period may be waived if the chair of the committee or subcommittee determined the hearing pertained to noncontroversial issues or if there were circumstances requiring the hearing to occur sooner.

b. A majority of the committee or subcommittee members must concur with the decision to waive the one-week notification period.

c. A committee or subcommittee hearing may not be held without at least a 24-hour notice.

d. Questioning by members of the committee or subcommittee alternates between majority and minority members in order of seniority or in order of arrival.

e. The committee or subcommittee could determine for good cause that the hearing could begin at an earlier time.

f. A hearing could be initiated only by specific authorization of the committee or subcommittee.

g. The chair and ranking minority member could for good cause waive the requirement.

h. Not including weekends and holidays.

i. An Administration witness must provide 50 copies of his or her statement.

j. If a witness failed to file a statement in a timely fashion, the chair could exclude the witness's testimony or allow testimony or responses to questions. (See also "Witnesses' Written Testimony.")

k. A witness statement must also include a summary of the testimony. (See also "Witnesses' Written Testimony.")

l. Questioning of witnesses was allowed to be conducted only by members of the committee and, as authorized by the chair or ranking minority member (or vice chair of the Intelligence Committee), by professional staff.

m. Questioning was limited to 5 minutes if 5 or more members were present and to 10 minutes if fewer than 5 members were present. Members could question for another 5 minutes each in a second round of questions; 5-minute rounds continued "until all members [had] exhausted their questions of the witness."

n. The chair could limit or extend the time for oral witness statements.

o. Members present when a hearing begins are recognized in order of seniority on the committee and are recognized before members arriving later; members arriving after the beginning of a hearing are recognized in order of appearance.

p. Any other documents and reports that would be the subject of the hearing must be provided to members at least 72 hours prior to a hearing, unless the chair and ranking minority member waived the requirement.

q. The chair and ranking minority member of the committee or a subcommittee could appoint staff to question witnesses. Staff questioning could occur after members had completed their questioning or at a time determined by the chair and ranking majority and minority members. Staff questioning could not occur in the absence of a quorum for taking testimony.

r. A witness wishing to use an exhibit must provide the committee an identical copy or representation and 100 copies reduced to the size of letter or legal paper 48 hours prior to the hearing. If not provided 48 hours in advance, the exhibit could not be used and would not be included in the hearing record.

s. Any other documents and reports that would be discussed at the hearing must be provided to members at least 72 hours prior to a hearing, notwithstanding a request to embargo a document.

t. The chair could direct a witness to summarize his or her written statement.

u. The committee's rule was expressed as of noon of the business day that preceded the business day immediately prior to the day of the hearing.

v. A witness must summarize written testimony and could not read it.

w. A witness who violated "standards of dignity, decorum, and propriety" while testifying could be dismissed and the witness's oral and written testimony excluded from the hearing record.

x. The chair could waive the requirement for good cause after consultation with the ranking minority member.

y. Testimony must be filed electronically.

z. The chair could limit the time allotted to each witness.

aa. One of the guidelines appended to the committee's rules reiterated the one-week notice to the public but in addition exhorted the majority to provide the minority with notice of a time, place, and subject matter of a hearing seven days prior to the public notice.

bb. Testimony could be filed electronically.

cc. A curriculum vitae must be submitted in addition to a written statement. If 7 calendar days' notice was given, written statements and curricula vitae must be submitted 24 hours in advance of the hearing. If 14 calendar days' notice was given, written statements and curricula vitae must be filed 48 hours in advance.

dd. A witness must also provide an executive summary of his or her testimony in a form directed by the chair.

ee. After the chair and ranking minority member, speaking order is based on order of arrival, unless the chair directs otherwise.

ff. For each round of questions.

gg. May be extended by chair on the chair's initiative or at the request of any member.

hh. A witness list is to be distributed five days in advance "where practicable."

ii. The chair and ranking minority member could waive the requirement.

jj. If a witness missed the filing deadline, he or she could not testify but could be seated to take questions. The witness would nonetheless be permitted to testify if the chair and ranking minority member determined that there was good cause for the witness's failure to file a statement or that it was in the committee's interest to hear the testimony.

kk. In a format to be determined by the committee.

ll. Unless the committee decided otherwise.

mm. Written statements must be submitted in both print and electronic formats.

nn. A witness was permitted to make a "brief and relevant" statement at the beginning and conclusion of the witness's testimony, the duration to be determined by the chair.

Oversight[39]

Senate Rules

A Senate rule directs each committee (except the Appropriations and Budget Committees) to "review and study, on a continuing basis the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the legislative jurisdiction of that committee." The rule states that the purpose of this activity is to assist the Senate in its "analysis, appraisal, and evaluation of the application, administration, and execution" of the laws Congress has enacted and in its "formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate.... " The rule also suggests mechanisms and techniques for committees to follow. They may act on their own, through contracts, or by directive to an agency to report. They might use pilot programs, cost-benefit analyses, or evaluation after a set period of time.[40] (Rule XXVI, paragraph 8(a).) (See also, below, "Senate Rule on Activity Reports.")

Each committee's legislative jurisdiction appears in an individual subparagraph of Rule XXV, paragraph 1. Legislative jurisdiction is also one basis of a committee's oversight jurisdiction. These subparagraphs contain a second basis for oversight jurisdiction in a separate, broadly worded statement of oversight jurisdiction. The updated oversight jurisdictions of the Committee on Homeland Security and Governmental Affairs and the Committee on the Budget appear in S.Res. 445 (108th Congress).[41] The oversight jurisdictions of the Committees on Indian Affairs and Intelligence appear in their organizing standing orders.[42]

Committees may conduct investigations into "any matter within [their] jurisdiction" and "may report such hearings as may be had by it."[43] (Rule XXVI, paragraph 1.)

Another rule exhorts each Senate committee with legislative jurisdiction (with the exception of the Appropriations Committee) to undertake two examinations in conjunction with its consideration of public bills and joint resolutions. A committee should "endeavor to insure" that "continuing programs" of the federal government and of the District of Columbia government within its jurisdiction are designed so that, "consistent with the nature, requirements, and objectives of those programs," appropriations are made annually. A committee should also endeavor to insure that "continuing activities" of the federal government within the committee's jurisdiction are likewise carried out so that appropriations are made annually. Committees (except the Appropriations Committee) are directed to review "from time to time" programs within their

[39] For an explanation of congressional oversight authority and resources, see CRS Report RL30240, *Congressional Oversight Manual*, by Alissa M. Dolan et al.

[40] A Senate standing order provides authority to the Appropriations Committee and its subcommittees to appoint expert staff and for these staff, upon the written authorization of the chair, to examine the records of any federal department or agency anywhere in the world. The standing order appears in § 75 of the *Senate Manual*.

[41] Agreed to in the Senate October 9, 2004. Appearing in the *Senate Manual* beginning on p. 97 and also appears as a standing order in § 82 of the *Senate Manual*. Specific investigative authority for the Homeland Security and Governmental Affairs Committee is also included in the annual committee funding authorization; see, for example, S.Res. 73, § 12 (114th Congress).

[42] Appearing in § 83.2 and § 81, respectively, of the *Senate Manual*. Provisions in the standing order creating the Intelligence Committee, as amended, allow standing committees oversight of intelligence activity consistent with their jurisdiction.

[43] The standing order creating the Intelligence Committee contains extensive provisions relating to the committee's handling of classified information. The standing order, as amended, appears in § 81 of the *Senate Manual*.

jurisdiction for which appropriations have not been made annually to ascertain whether the programs could be changed so that appropriations would be made annually. (Rule XXVI, paragraph 13.)

Investigations

Several committees had provisions in their rules on committee or subcommittee investigations. The power to investigate emanates from Congress's power to inform itself and to compel testimony and the production of documents in gaining information. As noted immediately above, Rule XXVI, paragraph 1 provides every Senate committee with investigative authority.[44]

The Agriculture, Nutrition, and Forestry Committee's rules stated that a majority of committee members must vote at a business meeting to approve investigations to be undertaken by the committee or a subcommittee, in which depositions would be taken or subpoenas issued.

The Banking, Housing, and Urban Affairs Committee's rules stated that the committee could not initiate an investigation unless the Senate, the full committee, or the chair and ranking minority member authorized the investigation. A subcommittee could undertake an investigation only if authorized by the Senate or the committee.

An Energy and Natural Resources Committee rule stated that no investigation could be undertaken by the committee or its subcommittees unless authorized by the chair and ranking minority member of the committee or by a majority of the committee. A witness called to testify at an investigation must be informed of the matter or matters under investigation, given a copy of the committee's rules, and provided the opportunity to make a "brief and relevant oral" statement before or after questioning. The rule further distinguished an investigation from a review or study undertaken as authorized by Senate Rule XXVI, paragraph 8, and from an "preliminary inquiry" to establish the existence of "substantial credible evidence" that would warrant an investigation. (See, below, "Counsel.")

A rule of the Health, Education, Labor, and Pensions Committee required committee or subcommittee investigative activity, including issuing subpoenas and receiving sworn testimony or testimony of subpoenaed witnesses, to be authorized by majority vote of the committee. Information obtained through investigative activity must be promptly made available to each committee member requesting the information and to any assistant to a committee member designated in writing by a committee member, subject to restrictions imposed by rules of the Senate. If requested by a committee member, such information could be summarized in writing. If requested by a committee member, the chair of the committee or subcommittee must call an executive session to discuss the investigative activity or the issuance of a subpoena connected to the activity.

The Intelligence Committee's rule stated that no investigation could be initiated by the committee unless at least five members of the committee specifically requested that the chair or vice chair authorize the investigation. Authorized investigations could be conducted by members or designated committee staff. An oversight rule of the committee required the staff director to ensure the committee appropriately considered covert action programs not less than once a quarter.

[44] For further discussion, see "Congressional Investigations" in U.S. Congress, Senate, *The Constitution of the United States of America: Analysis and Interpretation*, prepared by Congressional Research Service (CRS), 112th Cong., 2nd sess., S.Doc. 112-9 (Washington: GPO, 2014), pp. 96-111, available https://www.gpo.gov/fdsys/pkg/GPO-CONAN-REV-2016/pdf/GPO-CONAN-REV-2016-9-2.pdf.

Depositions

In a deposition, a committee, typically committee staff, questions a witness or potential witness for a hearing in the course of an investigation and prior to a hearing or the preparation of a report. Questioning is conducted under oath and taken down by a court or congressional reporter and transcribed. At a hearing, a deposition might be used to identify contradictions in a witness's testimony, refresh a witness's memory, or explore inconsistencies between witnesses, among other uses.[45]

On Authorizing Depositions

The Agriculture, Nutrition, and Forestry Committee's rules stated that a majority of committee members must vote at a business meeting to approve investigations undertaken by the committee or a subcommittee in which depositions would be taken or subpoenas issued. Two other rules dealt with depositions. First, the chair or a staff officer designated by the chair could authorize and issue notices for taking depositions, specifying the time and place of examination and naming the Senator or staff officer taking a deposition. The deposition must be taken in private, unless otherwise specified, and procedures leading to civil or criminal contempt were not in order unless the deposition notice was accompanied by a subpoena. Second, a witness giving a deposition must be examined under oath, administered by an official authorized under local law to swear in witnesses. The chair would rule by telephone or otherwise on objections by the witness, and a transcript of the deposition must be filed with the committee clerk.

A rule of the Commerce, Science, and Transportation Committee authorized committee staff to take depositions, upon the chair's notification to the ranking minority member at least 72 hours in advance. The ranking minority member or staff he or she designated could participate in taking a deposition. A witness at a deposition must be examined under oath, administered by a committee member or an individual authorized by law to administer oaths.

A committee rule also required electronic or stenographic records of testimony in open and closed hearings and depositions. In the instance of a deposition, the individual who administered the oath must certify on the transcript that the witness was sworn in, and the stenographer must certify that the transcription was a true record of the testimony; the transcript with the certifications was filed with the committee clerk. In addition, the rule allowed a witness to purchase a transcript of testimony given in public session or a transcript of portions of testimony given in closed session or in a deposition that subsequently became part of the record of a public session. (See also, above, "Correcting Transcripts.")

A rule of the Foreign Relations Committee authorized staff to take depositions, at the direction of the committee.

The Small Business and Entrepreneurship Committee's rules allowed the chair to authorize staff to take depositions, following notification at least 72 hours in advance to the ranking minority member. Any committee member and staff designated by the chair or ranking minority member could attend and participate in taking a deposition. The witness must testify under oath, and the transcript is kept by the committee clerk. The transcript or a portion of the transcript could be made public by a vote of the majority of the committee or by the chair upon notification to the ranking minority member.

[45] For further information, see CRS Report RL30240, *Congressional Oversight Manual*, by Alissa M. Dolan et al.

Homeland Security and Governmental Affairs Committee's Rule

The Homeland Security and Governmental Affairs Committee's rule allowed the chair to authorize depositions with the approval of the ranking minority member. If the ranking minority member disapproved a deposition, the committee by majority vote could authorize it. If the ranking minority member did not respond to the chair's proposed authorization within 72 hours (excluding Saturdays, Sundays, and legal holidays when the Senate was not in session), the chair could authorize the deposition. A deposition notice must specify the time and place of examination and name the member(s) or staff who would take the deposition. The committee could initiate procedures leading to criminal or civil enforcement proceedings only when a subpoena accompanied the deposition notice.

Under the committee rule, a deposition was to be taken in private, unless otherwise specified. Counsel could accompany a witness to advise the witness on his or her legal rights. An individual authorized by local law could administer oaths to witnesses. Members or staff asked questions orally. If a witness objected to a question, the objection must be noted, and members or staff could continue with the deposition. The chair or a staff member designated by the chair could stipulate with the witness changes to procedure. The rule provided that deviations from procedure that did not "substantially impair" the reliability of the record did not relieve the witness from an obligation to testify.

The rule further provided that the deposition be transcribed or electronically recorded. A transcript must be made available to the witness or the witness's counsel. The witness may request corrections to the transcription or to grammatical errors, which the chair or a staff member designated by the chair would rule on. The witness must sign the transcription. Failure to sign must be noted on the transcript. The individual who swore in the witness must certify administration of the oath, and the stenographer must certify that the transcription is a true copy. The transcript must be filed with the committee clerk.

Counsel

On Being Accompanied by Counsel

Rules of the Armed Services; Health, Education, Labor, and Pensions; and Small Business and Entrepreneurship Committees permitted any witness "summoned" to give testimony at an open or closed hearing to be accompanied by counsel of the witness's own choosing and allowed counsel to advise the witness of legal rights during a hearing. The Banking, Housing, and Urban Affairs Committee's rule was the same, except that it used the term "subpoenaed" instead of "summoned." The wording of the Health, Education, Labor, and Pensions Committee's rule provided this protection to all witnesses giving sworn testimony.

An additional provision of the rule of the Small Business and Entrepreneurship Committee indicated that a failure to obtain counsel would not excuse a witness from testifying.

The Energy and Natural Resources Committee allowed a witness called to testify for an investigation to have counsel present at an open or closed hearing or at an interview to advise the witness on his or her legal rights.

The Commerce, Science, and Transportation and Homeland Security and Governmental Affairs Committees provided in their rules that a witness at an open or closed hearing or a deposition could be accompanied by counsel to advise the individual of his or her rights but not to coach or answer for the individual. The rules contained two further provisions. First, they allowed the chair to determine whether counsel for the government, for a corporation or association, or for more

than one witness could present a conflict of interest when representing an individual employed by the relevant entity or when representing more than one witness. The chair could order a witness to be represented only by personal counsel. Second, the rules stated that ejection of counsel for obstructive conduct at a hearing or deposition would not excuse a witness and that failure to obtain counsel would not excuse a witness from complying with a subpoena.

Intelligence Committee's Rule

A rule of the Intelligence Committee also allowed any witness to be accompanied by counsel. If a witness notified the committee at least 24 hours before appearing that he or she was not able to obtain counsel, the committee would endeavor to obtain voluntary counsel. Failure to obtain counsel, however, would not excuse a witness from testifying. A majority of the members present could censure or remove a counsel for failure in ethical or professional conduct. The committee's rule also disallowed a witness's counsel from asking questions but permitted counsel to submit in writing questions proposed to be asked by the committee of the witness or other witnesses. In addition, the rule permitted counsel to suggest the presentation of other evidence or the calling of other witnesses. The committee could dispose of a counsel's questions or submissions as it deemed "appropriate."

Another committee rule formally authorized the chair to rule on objections made by a witness or counsel. The ruling would be the committee's determination unless a majority of the committee overruled the chair.

Finally, a rule prohibited the committee from submitting to the Senate a recommendation for a contempt citation or subpoena enforcement unless the committee had met, pursuant to notice, on the recommendation, had permitted the affected individual the opportunity to respond in person or in writing, and had agreed to the recommendation by a majority vote.

Subpoenas

Senate Rule

Committees are authorized to subpoena witnesses and documents.[46] (Rule XXVI, paragraph 1.) Subpoena authority allows committees to "issue legal orders requiring individuals to appear and testify, or to produce documents pertinent to the committee's functions, or both. Persons who do not comply with subpoenas can be cited for contempt of Congress and prosecuted."[47]

[46] For an introduction to congressional subpoenas, see CRS Report RL34114, *Congress's Contempt Power and the Enforcement of Congressional Subpoenas: A Sketch*, by Todd Garvey and Alissa M. Dolan. For a more extensive discussion, see CRS Report RL34097, *Congress's Contempt Power and the Enforcement of Congressional Subpoenas: Law, History, Practice, and Procedure*, by Todd Garvey and Alissa M. Dolan.

For an example of the Senate's action to bring a civil action to enforce a subpoena, see S.Res. 377 (114th Congress); and "Directing Senate Legal Counsel To Bring a Civil Action," Senate debate, *Congressional Record*, daily edition, vol. 162 (March 17, 2016), pp. S1561-S1568. For additional background, see Todd Ruger, "Supreme Court Allows Senate Subpoena for Sex Trafficking Probe," *CQ News*, September 13, 2016, available at http://www.cq.com/doc/news-4953779?3&search=Zv5KVklb.

[47] Walter Kravitz, *Congressional Quarterly's American Congressional Dictionary*, 3rd ed. (Washington, DC: CQ Press, 2001), p. 250.

Committees' Rules

A rule of the Foreign Relations Committee dealt with the return of a subpoena or of a request to an agency for documents. The rule stated that the return could be a time and place other than a committee meeting. If the return was incomplete or accompanied by an objection, the rule stated that that was good cause for a hearing on short notice. On such a return, the chair or a member designated by the chair could convene a hearing on four hours' notice by telephone to committee members. One member was a quorum for this hearing, which occurred for the sole purpose of "elucidat[ing] further information about the return and to rule on the objection."

A rule of the Small Business and Entrepreneurship Committee specifically authorized the chair to rule on objections or assertions of privilege in response to subpoenas or on questions raised by committee members or staff.

Explanation of Table 6: Committee Subpoena Requirements, Senate Committees' Rules, 114th Congress

Table 6 compares committees' rules in the 114th Congress on the subpoena requirements across the 16 standing Senate committees and the 2 additional permanent Senate committees with legislative authority. The 16 standing committees are listed in alphabetical order in the left-most column, and the 2 additional permanent committees are listed below. The 2 rows of the heading contain key terms describing the committees' rules, as explained immediately below. A check in a box indicates that a committee adopted a rule or a closely related variation on it. An empty box indicates that a committee did not address that subject in its rules. Certain checks and boxes are footnoted to offer additional detail on a particular committee's rule. In some cases, a single footnote is used to give the same additional detail for the rule of more than one committee.

The following list explains the headings in **Table 6**:

- *Authorization* refers to who has the authority to authorize a subpoena. *RMM* is used as an abbreviation for *ranking minority member*.
- *Issuance* refers to whose signature is required for the issuance of a subpoena.

Table 6. Committee Subpoena Requirements, Senate Committees' Rules, 114th Congress

(authorization and issuance)

	Authorization				Issued upon Signature of		
Committee	**Chair**	**Chair with RMM**	**Chair Consults with RMM**	**Committee Majority**	**Chair**	**Member Designated by Chair**	**Members Designated by Committee**
Agriculture, Nutrition, & Forestry		✓[a,b]			✓	✓	
Appropriations							
Armed Services				✓	✓[c]	✓[c]	
Banking, Housing, & Urban Affairs		✓		✓			
Budget							

Committee	Authorization				Issued upon Signature of		
	Chair	Chair with RMM	Chair Consults with RMM	Committee Majority	Chair	Member Designated by Chair	Members Designated by Committee
Commerce, Science, & Transportation		✓[a,b,d]			✓	✓	
Energy & Natural Resources	✓[e]	✓		✓	✓		
Environment & Public Works							
Finance		✓		✓	✓	✓	
Foreign Relations				✓[f]	✓		✓
Health, Education, Labor, & Pensions				✓[g]	✓[g]	✓[g]	
Homeland Security & Governmental Affairs		✓[h,b,i]			✓	✓	
Judiciary							
Rules & Administration							
Small Business & Entrepreneurship		✓[b,j]		✓[k]	✓	✓	
Veterans' Affairs		✓[l,b]		✓	✓	✓	
Indian Affairs		✓		✓			
Intelligence				✓	✓[m]	✓	

Source: Prepared by the authors based on a review of Senate committees' rules, 114th Congress.

a. The chair could, however, issue a subpoena if the chair had not received a notification of disapproval from the ranking minority within 72 hours, excluding Saturdays and Sundays.

b. A majority vote of the committee could override disapproval by the ranking minority member.

c. After authorization by the committee, the chair could issue a subpoena following consultation with the ranking minority member.

d. When the chair and ranking minority member did not concur, a majority of the committee, at least one of whom was a minority member, was required for a quorum to authorize a subpoena.

e. The chair could alone issue a subpoena when the committee had authorized an investigation under its rules.

f. A subpoena could be authorized at a meeting or by proxies. At the request of a member, a subpoena could be authorized only at a meeting.

g. Before the committee or a subcommittee authorizes a subpoena or delegates that authority to the chair or another member, the committee must first authorize an investigation. After authorization of an investigation and delegation of subpoena authority to the chair (or a member designated by the chair), the chair of the committee or a subcommittee could issue a subpoena following notification to the ranking minority member and to other committee or subcommittee members requesting notification. Notification could be waived if the chair, in consultation with the ranking minority member, determined that notice would "unduly impede the investigation."

h. The chair could, however, issue a subpoena if the chair had not received a notification of disapproval from the ranking minority within 72 hours, excluding Saturdays, Sundays, and legal holidays if the Senate was not in session. Letters could be transmitted by email, and staff could be designated by the chair and ranking minority member to deliver and receive the letters.

i. Under a rule of the committee, when a subcommittee authorized a subpoena under its own rules, the subcommittee must notify the committee's chair and ranking minority member (or staff members designated by them) in writing. The subpoena could not be issued for at least 48 hours, excluding Saturdays and Sundays, unless the chair and ranking minority member waived the delay or the subcommittee chair certified to the committee chair and ranking minority member that it was necessary to issue the subpoena immediately.

j. The chair could issue a subpoena without the approval of the ranking minority member if the chair had not received a notification of disapproval from the ranking minority within 72 hours, excluding Saturdays, Sundays, and holidays.

k. Committee members' consent could be given without a meeting but must have been in writing.

l. The chair could issue a subpoena without the approval of the ranking minority member if the chair had not received a notification of disapproval from the ranking minority within 48 hours, excluding Saturdays, Sundays, and holidays.

m. A subpoena could also be issued by the vice chair of the committee and, pursuant to the standing order creating the committee, signed by the vice chair or any member designated by the chair. The committee's rule required the committee's rules and S.Res. 400, the standing order, to be attached to any subpoena. (See the standing order in Section 81of the *Senate Manual*.)

Referral of Legislation

Senate Rules

Referral (or reference) of bills, resolutions, and other matters to committee is made by the presiding officer on the basis of committee jurisdiction (Rule XVII, paragraph 1). In practice, the Senate Parliamentarian performs this responsibility on the presiding officer's behalf.[48]

The jurisdictions of all but two of the committees encompassed by this report appear in Rule XXV, as supplemented by S.Res. 445 (108th Congress).[49] The jurisdictions of the Select Committee on Intelligence and the Committee on Indian Affairs appear in Senate standing orders.[50] Precedents established by past referral decisions, orders of the Senate, ad hoc agreements, and memoranda of understanding between committees supplement these jurisdictional statements.[51] (See also, below, "Nominations.")

[48] The motion to refer appears in Rule XVII, paragraph 2. See also Riddick's Senate Procedure, pp. 1162-1164. See also CRS Report RS20544, *The Office of the Parliamentarian in the House and Senate*, by Valerie Heitshusen; and CRS Report RS20856, *Office of Legislative Counsel: Senate*, by Matthew E. Glassman.

[49] S.Res. 445 (108th Cong.), agreed to in the Senate October 9, 2004, effective with the 109th Congress, appears in the *Senate Manual*, beginning on p. 97. (It also appears as a standing order in § 82 of the *Senate Manual*.) Among its provisions, S.Res. 445 contained changes to the jurisdiction of the Governmental Affairs Committee, which was renamed the Homeland Security and Governmental Affairs Committee, and to the jurisdiction of the Budget Committee.

[50] The standing order creating the Select Committee on Intelligence, as amended, appears in § 81 of the *Senate Manual*. The standing order creating the Committee on Indian Affairs appears in § 83.2 of the *Senate Manual*.

[51] For further discussion of referral, also called reference, see CRS Report 98-242, *Committee Jurisdiction and Referral in the Senate*, by Judy Schneider; and *Riddick's Senate Procedure*, pp. 1150-1169.

For an example of a supplementary agreement governing referral to one or more committees, see the legislative history of S. 710, the Native American Housing Assistance and Self-Determination Reauthorization Act of 2015, in the 114th Congress. Upon introduction on March 11, 2015, the bill was referred to the Indian Affairs Committee, which reported the measure to the Senate on June 4, 2015. That same day, S. 710 was referred to the Banking, Housing, and Urban (continued...)

A referral is most typically made to one committee. Rule XVII, paragraph 1 directs that referral of legislation be made "in favor of the committee which has jurisdiction over the subject matter which predominates.... "[52] Rule XVII, paragraph 3 allows referral to more than one committee by motion of the majority and minority leaders and permits joint, sequential, or split referral, possibly subject to a time limit, but this procedure has not been used.[53] Referral to more than one committee has been accomplished, however, by unanimous consent.[54] Committees might also originate legislation within their jurisdiction that is later considered as a freestanding measure or combined with other legislation into a single measure or amendment.[55]

Rule XIV contains the procedure for referring bills and joint resolutions to committee.[56] A bill or joint resolution must be read twice by title on two different legislative days prior to referral. This

(...continued)

Affairs Committee "pursuant to the order of May 27, 1988, for a period not to exceed 60 days." The order, affecting the referral of legislation on Department of Housing and Urban Development Indian housing programs, may be found at Senator Robert C. Byrd, "Committee Referral of Legislation Concerning Indian Housing," Senate debate, *Congressional Record*, vol. 134, part 9 (May 27, 1988), pp. 13053-13054.

[52] If a bill is erroneously referred—through an error by the parliamentarian or through a mistake in printing or recording of a measure's referral—the bill is re-referred by unanimous consent to the committee of jurisdiction. See, for example, Senator Mitch McConnell, "Discharge and Referral—S. 32," unanimous consent request, *Congressional Record*, daily edition, vol. 161 (January 13, 2015), p. S217.

[53] The standing order creating the Intelligence Committee provides for sequential referral of legislation reported by the Intelligence Committee when it contains matter within the jurisdiction of a standing committee and the committee's chair requests the referral; the standing committee is limited to 10 days to report. Likewise, if a committee reports legislation that contains matter within the jurisdiction of the Intelligence Committee, the chair may request referral, allowing the committee 10 days to report. The standing order, as amended, appears in § 81 of the *Senate Manual*.

[54] See, for example, the order for the sequential referral of an Internet tax bill (S. 150 (108th Cong.)): Senator Conrad Burns, "Unanimous Consent Agreement—S. 150," Senate debate, *Congressional Record*, vol. 149, part 16 (September 23, 2003), p. 22648.

[55] Rule XXV, paragraph 1 permits committees to originate legislation ("leave to report by bill or otherwise on matters within their respective jurisdictions"). For example, S. 1813, a surface transportation bill, was introduced November 7, 2011, and referred to the Environment and Public Works Committee, the jurisdiction of which includes construction and maintenance of highways, bridges, and other public works. The committee subsequently reported the bill on February 6, 2012. In a similar time frame, other committees were originating their portions of the bill for later incorporation into the surface transportation legislative vehicle to be considered by the Senate: Banking, Housing, and Urban Affairs, the jurisdiction of which includes mass transit; Commerce, Science, and Transportation, the jurisdiction of which includes highway safety and interstate common carriers; and Finance, the jurisdiction of which includes taxes, including those dedicated to the Highway Trust Fund. Majority Leader Harry Reid chose to use S. 1813 as the legislative vehicle and moved on February 7 that the Senate proceed to its consideration. On March 1, during Senate consideration of S. 1813, Majority Leader Reid offered Amendment No. 1761, which incorporated the provisions agreed to in the committees of jurisdiction and another 37 amendments cleared by the floor managers and the committees of jurisdiction. The amendment was agreed to by unanimous consent March 7, 2012, as part of a complex unanimous consent agreement.

[56] Senate simple resolutions and House and Senate concurrent resolutions may not contain legislation and are treated differently from bills and joint resolutions, which are the vehicles used to make laws. Simple and concurrent resolutions may be referred to committee under Rule XIV, paragraph 6. Two readings are not required. A resolution could be considered after being reported by the committee to which it was referred or upon the discharge of the committee from further consideration of the resolution. Commonly, many simple and concurrent resolutions are taken up and agreed to by unanimous consent on the day of their introduction, perhaps during the Senate's so-called wrap-up period. Some resolutions are privileged, such as a concurrent resolution providing for the adjournment of the two houses or a concurrent resolution on the budget. Other procedures might also apply to resolutions, such as the procedure in paragraph 6 related to the Senate Calendar heading "Resolutions and Motions over, under the Rule," on which unanimous consent to consider a resolution was sought but not obtained. See *Riddick's Senate Procedure*, pp. 957-967; for an explanation of contemporary practice, see Martin B. Gold, *Senate Procedure and Practice*, 3rd ed. (Lanham, MD: Rowman & Littlefield, 2013), p. 79. Other documents are also referred to committees, such as executive communications, petitions, and memorials. (Rule VII, paragraphs 1, 4, and 6.) See *Riddick's Senate Procedure*, pp. (continued...)

same procedure applies to bills and joint resolutions received from the House after passage there. Both Senate and House bills and joint resolutions may, however, under the rule be read twice on the same day and referred if there is no objection.[57] Typically, in the absence of an objection or some other action, two readings are assumed to have occurred and the presiding officer refers bills and joint resolutions the day of their introduction or receipt from the House.[58]

Rule XIV is perhaps better known, however, for Senators' use of its procedure to *prevent* referral of a Senate bill or joint resolution or House-passed bill or joint resolution to committee and to instead have it placed directly on the Senate Calendar of measures awaiting floor action.[59] By objecting after each of the two readings, a Senator prevents referral to committee; the bill or joint resolution is placed directly on the Senate Calendar (Rule XIV, paragraph 4). These actions bypass committee referral of the specific bill or joint resolution, but placement on the calendar does not force the Senate to ever consider the measure. Legislation might also be held at the desk or might be placed on the calendar by unanimous consent. Whatever route is chosen to bypass a committee, it is normally the majority leader or his designee who acts; he will act on his own behalf related to his control of the Senate's agenda or on behalf of a Senator of either party wishing to avoid the referral of a bill or joint resolution to committee.[60]

(Concerning committees' rules on referring legislation to their subcommittees, see, above, "Referral of Legislation to Subcommittees.")

Executive Comment

The Armed Services Committee in its rules directed the committee clerk to send a measure referred to the committee to the appropriate executive department or agency for a report on it, "unless otherwise ordered." The Intelligence Committee's rule authorized the chair or vice chair within his or her discretion to seek executive comment.

Markup Procedures

Committees' Rules

Several committees included in their rules selected procedures for marking up legislation—offering, debating, and voting on amendments. The most common procedures concerned notice of a markup session and the pre-markup submission of first-degree amendments. Prerogatives of the

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430-441.

[57] If a Senate bill or joint resolution identical or substantially identical to a House bill or joint resolution is on the Senate Calendar, the House measure will be placed on the calendar. *Riddick's Senate Procedure,* p. 256.

[58] A unanimous consent request agreed to at the beginning of the 114th Congress and preceding Congresses allowed Senators to bring bills and resolutions to the desk for referral to appropriate committees. Senator Mitch McConnell, "Unanimous Consent Requests," remarks in the Senate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. S8. Rule VII, paragraph 6 already allowed this procedure for bills, resolutions, and other matters brought to the desk after Morning Hour; the unanimous consent agreement provides flexibility as the contemporary Senate operates.

[59] See CRS Report 98-429, *The Senate's Calendar of Business*, coordinated by Elizabeth Rybicki.

[60] See CRS Report RS22309, *Senate Rule XIV Procedure for Placing Measures Directly on the Senate Calendar*, by Michael L. Koempel. For an explanation of this procedure and other procedures for bypassing referral to committee or truncating committee action, see CRS Report RS22299, *Bypassing Senate Committees: Rule XIV and Unanimous Consent*, by Michael L. Koempel.

chair and committee practices and traditions also affect the conduct of markups. The chair's prerogatives include choosing the markup vehicle, structuring the amendment process, and achieving various unanimous consent and other agreements to move the committee toward its decisions. Committees may follow specific practices or traditions for pre-markup member or staff sessions, opening statements, alternating between the parties in offering amendments, and other aspects of a markup, which are used unless unanimous consent or another agreement is obtained for a variation from the norm.[61]

The Appropriations Committee's rules stated that, "to the extent possible," subcommittees' bills and reports must be given to each member of the full committee at least 36 hours before a measure was considered by the full committee.

A rule of the Commerce, Science, and Transportation Committee disallowed a member from making a motion to proceed to the consideration of a measure unless the motion was filed at least 48 hours in advance with the committee clerk, in the number of copies prescribed by the chair. This rule, however, could be waived upon the concurrence of the chair and the ranking minority member.

A rule of the Energy and Natural Resources Committee allowed a committee member through a written request to the chair to place legislation or another matter on the agenda of the committee's next business meeting. The request must be made at least one week prior to the meeting. The rule also stated that the chair could place legislation or another matter on the committee's agenda in the absence of a request. Once the agenda was published three days before the meeting, no item could be added, unless by approval of a majority of members. The rule required the committee staff director to promptly notify absent members of action taken by the committee on any matter not on the published agenda.

A rule of the Foreign Relations Committee provided that committee proceedings in meetings on legislation, nominations, or other matters were to be conducted "without resort to the formalities of parliamentary procedure and with due regard for the views of all members." Issues in procedure were to be resolved by the chair, in consultation with the ranking minority member, and the chair, in consultation with the ranking minority member, could propose special procedures for the committee's consideration of a specific matter.

A Rules and Administration Committee rule on speaking order provided that, after the chair and ranking minority member, members would be recognized based on their order of arrival, unless the chair directed otherwise. Another committee rule required a quorum of one-third of the members for "action" on amendments "prior to voting to report" a measure.

A rule of the Indian Affairs Committee required a copy of a bill, resolution, or other matter on an agenda to be circulated with the agenda. Another rule stated that a legislative measure or subject must be included in a meeting agenda if a member filed a written request with the chair of the committee at least one week prior to a meeting. The rule also provided that this right did not limit the chair's initiative to add an item to the agenda. Yet another rule specified that a new item could not be added to an agenda after the agenda was published, except by approval of a majority of the committee. If action was taken on an item not on the published agenda, the clerk must promptly notify all members who were absent from the meeting.

[61] For additional explanation of the markup process, see CRS Report 98-711, *Senate Rules for Committee Markups*, by Walter J. Oleszek; CRS Report 98-243, *Preparation for Senate Committee Markup*, by Elizabeth Rybicki; CRS Report 98-244, *Markup in Senate Committee: Choosing a Text*, by Elizabeth Rybicki; and CRS Report 98-245, *Markup in Senate Committee: Considering Amendments*, by Elizabeth Rybicki.

Explanation of Table 7: Markup Procedure Requirements, Senate Committees' Rules, 114th Congress

Table 7 compares committees' rules in the 114th Congress on markup procedure across the 16 standing Senate committees and the 2 additional permanent Senate committees with legislative authority. The 16 standing committees are listed in alphabetical order in the left-most column, and the 2 additional permanent committees are listed below. The heading contains key terms describing the committees' rules, as explained immediately below. A check in the box indicates that a committee adopted a rule or a closely related variation on it. An empty box indicates that a committee did not address that subject in its rules. Certain checks and boxes are footnoted to offer additional detail on a particular committee's rule. In some cases, a single footnote is used to give the same additional detail for the rule of more than one committee.

(See also, above, "Additional Committee Meetings" and **Table 2**; only some information appearing earlier also appears in **Table 7**.)

The following list explains the headings in **Table 7**:

- *Notice for Markup Sessions* refers to the minimum amount of time required to notify committee members prior to a markup session.
- *Notice for 1st Degree Amendments* refers to the minimum amount of time required to notify committee members of the submission of a first-degree amendment.

Table 7. Markup Procedure Requirements, Senate Committees' Rules, 114th Congress

(notice for markup sessions, notice for 1st degree amendments)

Committee	Notice for Markup Sessions	Notice for 1st Degree Amendments
Agriculture, Nutrition, & Forestry	24 hours	
Appropriations		24 hours[a]
Armed Services		
Banking, Housing, & Urban Affairs	3 business days[b,c,d]	2 business days[e,f,g]
Budget	72 hours	
Commerce, Science, & Transportation		
Energy & Natural Resources	3 days	
Environment & Public Works	72 hours[h,i]	24 hours[j]
Finance	48 hours[k]	
Foreign Relations	1 week[l]	
Health, Education, Labor, & Pensions	1 week[m,n,o]	24 hours[p]
Homeland Security & Governmental Affairs	5 days	5 p.m., 2 days prior[q]
Judiciary	7 days[r]	5 p.m. prior day[s,t,u]
Rules & Administration	5 days	5 p.m. prior day[s,u,v]
Small Business & Entrepreneurship	3 business days	24 hours[w]

Committee	Notice for Markup Sessions	Notice for 1st Degree Amendments
Veterans' Affairs	72 hours	24 hours[x]
Indian Affairs	3 days[y]	48 hours[u]
Intelligence	24 hours	

Source: Prepared by the authors based on a review of Senate committees' rules, 114th Congress.

a. To the "extent possible," a committee member must submit amendments and report language to be proposed at full committee markup to the committee chair and ranking minority member and the appropriate subcommittee chair and ranking minority member.

b. The committee adhered to the Cordon Rule for any bill or joint resolution before the committee (from "hearings through final consideration") where the legislation amended or repealed statutory text by requiring the committee clerk to provide a Cordon Rule analysis to each committee or subcommittee member. A member offering an amendment to such a measure must also provide a Cordon Rule analysis. The committee or subcommittee chair could waive this requirement to "expedite ... business." (See, below, "Cordon Rule.")

c. The chair could determine that the markup session could be held earlier in the event of "exigent circumstances."

d. Members could be notified in writing by mail or by email and must be provided with a copy of the measure in a "searchable electronic format."

e. Senators must deliver 50 written copies of a first-degree amendment if there had been 3 days' notice of the markup.

f. Senators could make a motion to strike a single section of a measure under consideration without prior notification; the motion was not amendable.

g. A majority of committee members, or the chair and ranking minority member together, could waive the amendment notice requirement.

h. If the 72 hours expired on a weekend day, the notice, agenda, and text of agenda items must be provided on the Friday preceding the weekend.

i. The chair of the committee or a subcommittee, with the concurrence, respectively, of the committee or subcommittee ranking minority member, could change notice and filing requirements to "meet special circumstances."

j. After the filing deadline, the chair must promptly distribute all amendments to committee members.

k. Unless an "emergency situation," as determined by the chair, required a meeting to be scheduled on shorter notice.

l. Unless the chair in consultation with the ranking minority member determined there was good cause to begin the meeting sooner.

m. Guidelines appended to the committee's rules exhorted the committee or a subcommittee to notify members of the time, place, and agenda of a markup seven days in advance and to provide copies of legislation or legislative matters to be considered; a summary of each, including an explanation of changes to existing law made by a bill or joint resolution; and the printed record or a summary of hearings held on the legislation or legislative matters.

n. The committee's rule required that the text of any bill or joint resolution to be considered must be provided to the chair for "prompt electronic distribution" to committee members.

o. When a bill or joint resolution was before the committee or a subcommittee for final consideration, a rule of the committee required the measure's sponsor to prepare a document to be distributed by the clerk to every committee or subcommittee member. If a measure was freestanding, not amending a statute, the document must contain a detailed summary of the purpose and impact of each section. If a measure amended a statute, the document must contain a detailed summary of the underlying statute and the proposed changes in each section of the statute as well as a Cordon Rule-style analysis of proposed statutory changes (see, below, "Cordon Rule") or, alternately, a detailed description of proposed changes and a side-by-side comparison of current law and proposed changes.

p. The committee's rule directed the chair to promptly distribute all filed amendments electronically to committee members. The rule also permitted the chair, with the concurrence of the ranking minority member, to modify filing requirements due to special circumstances.

q. This requirement applied only when there had been at least a 72-hour written notice of the markup. Otherwise, the requirement could be waived by a majority of committee members present or by the concurrence of the chair and ranking minority member. A first-degree amendment in writing could be delivered by email.

r. At the request of any member or at the initiative of the chair, any measure, nomination, or other matter on the committee's agenda could be postponed until the next meeting or for one week, whichever occurred later.

s. Senators could make a motion to strike a single section of a measure under consideration without prior notification.

t. Effective only if notice of the markup and availability of the measure to be marked up occurred at least seven days in advance. The deadline could not be imposed on more than three bills on an agenda, the bills to be determined by the chair. The committee's rule also provided that first-degree amendments must be "circulated via e-mail to each of the offices by at least 5:00 pm the day prior" to the markup.

u. Requirements could be waived by agreement of the chair and ranking minority member.

v. Effective only if notice of the markup and availability of the measure to be marked up occurred at least five days in advance and, when the chair proposed to offer a substitute amendment or a chair's mark, if the amendment or mark had been made available five days prior to the markup. The committee's rule also provided that first-degree amendments must be "circulated via e-mail to each of the offices by at least 5:00 pm the day prior" to the markup.

w. A committee member must provide 30 copies of an amendment and also provide an electronic copy. The member must also provide a summary. The clerk was to distribute amendments to all committee members. A majority of the committee members, or the chair and ranking minority member together, could waive the amendment notice requirement.

x. Not including Saturdays, Sundays or federal holidays. Amendments may be distributed to committee members in written or electronic format. This requirement applied only when there had been at least a 72-hour written notice of the markup. The requirement could also be waived by a majority vote of committee members.

y. Notice may be by email, but a paper copy must be provided to a member on request.

Voting in Committee

Senate Rules

Votes in the Senate may be by voice, where neither the names of Senators responding nor the numbers of Senators taking the affirmative or negative position is recorded. Division votes may also be taken, where the names of Senators taking the affirmative or the negative position are not recorded but the number taking each position is. In roll-call votes, the names and numbers of Senators voting in the affirmative or negative are recorded.[62]

One part of a Senate rule states that a committee may not report a measure or matter unless a majority of the committee is "physically present." Another part of the same rule specifies that the vote of any committee to report a measure or matter requires the concurrence of a majority of the members of the committee who are present. (Rule XXVI, paragraph 7(a).) Several committees reiterated this rule in their own rules.

A Senator may decline to vote on the floor or in committee if he or she believes voting on the question would be a conflict of interest. (Rule XII, paragraph 3.) (See also, below, additional

[62] An amendment or other motion might also be adopted by unanimous consent, or, when no Senator requests a roll-call vote, a chair might say something like this: "If there is no further debate on the amendment [motion], without objection, the amendment [motion] is agreed to."

committee rules related to including votes in committee reports, "Recorded Votes," and retaining votes in committee records, "Voting Records.")

Committees' Rules

A rule common to the Agriculture, Nutrition, and Forestry; Energy and Natural Resources; and Indian Affairs Committees allowed a single member to demand a roll-call vote. A rule of the Indian Affairs Committee allowed a measure to be reported without a recorded vote, unless a member objected.

A member absent during a roll-call vote of the Energy and Natural Resources Committee could vote later in the same meeting in person or by proxy or later record a position in the appropriate committee record.

A rule of the Armed Services Committee allowed the chair to hold open a roll-call vote on a measure or matter before the committee until no later than midnight of the day on which the committee voted on the measure or matter, following consultation with the ranking minority member. A rule of the Environment and Public Works Committee allowed members who had not voted by proxy to record their votes on the same business day, provided their votes did not change the outcome.

The Banking, Housing, and Urban Affairs Committee disallowed roll-call votes unless a majority of the committee was actually present. If a roll-call vote was taken, a committee member could vote by proxy, as explained immediately below ("Proxy Voting"). The rule of the Homeland Security and Governmental Affairs Committee was similar but allowed roll-call votes when the appropriate quorum was present.

The Environment and Public Works Committee's rules contained a provision requiring the committee chair to announce the results of each roll-call vote, including the votes cast in favor and against by each member.

The Finance Committee's rules also included a provision on announcing votes. The committee's rule provided that the results of all roll-call votes related to a measure or matter were to be announced not later than the day on which the measure or matter was ordered reported from committee. Another rule of the Finance Committee allowed for polling of committee members who were not present during a vote or had not cast a proxy vote (both proxy voting and polling being explained immediately below). Within the discretion of the committee, these members could be polled for the purpose of recording their votes on any roll call taken by the committee.

The Rules and Administration Committee's rules had four provisions dealing with votes, in addition to a rule on proxy votes (explained immediately below). First, a rule provided that voting in committee would "normally" be by voice vote. Second, a roll-call vote would be taken on the demand of one-third of members present. Third, one-third of members were required for a quorum for "action" on amendments "prior to voting to report" a measure. Fourth, the result of a roll-call vote on a measure or an amendment to it, including the tabulation of affirmative and negative votes, would appear in the committee report on the measure, unless the result was previously announced in the committee.

A rule of the Intelligence Committee stated that committee decisions were by majority vote of members present and voting.

(For committee rules related specifically to subcommittee voting, including proxy voting in subcommittees, see, above, "Subcommittees' Reporting or Discharge.")

Ending Debate

A rule of the Finance Committee allowed the chair to determine that a motion, including an amendment (a motion to amend), had been "adequately debated." If the chair made that determination, the vote would occur. A member, however, could make a motion to continue debate, which would be decided without debate. Another rule of the committee allowed the chair to determine the order of voting when several motions were pending on related or overlapping matters.

A rule of the Judiciary Committee allowed the chair to entertain a non-debatable motion to end debate and bring a question to a vote. If there was objection to ending debate, a roll-call vote would be taken. To agree to the motion, 11 members, including 1 minority member, needed to vote in the affirmative.

Technical and Clerical Corrections to Measure

A rule of the Energy and Natural Resources and Indian Affairs Committees stated that a vote approving a motion to report a measure was also an authorization for committee staff to make technical and clerical corrections to the measure.

Proxy Voting[63]

Senate Rules

Proxy voting permits one committee member to cast the vote of another committee member who is absent. The voting member is still able to cast his or her own vote.[64]

A majority of a committee must be physically present to report a measure or matter, and a majority of those present must concur to report. (Rule XXVI, paragraph 7(a)(1) and (3).) A majority must have been physically present, exclusive of proxies, for the Senate to receive a report from a committee.[65] A vote by proxy may not be cast if the committee's rules proscribe proxy votes to report a measure or matter. Even if proxy votes are allowed on a vote to report, a proxy vote may not be cast if the absent member has not been informed of the matter and has not "affirmatively requested" that he or she be recorded. (Rule XXVI, paragraph 7(a)(3).)

A rule requires the vote to report a measure to appear in the committee report on that measure. The rule further provides that the requirement does not curtail the power of a committee to adopt rules allowing proxy voting on questions other than the reporting of a measure or matter. (Rule XXVI, paragraph 7(c).)

Committee Rules

Every Senate committee allowed proxy votes to be cast by committee members. Many committees repeated the requirement of the Senate rule applicable to proxy votes on a motion to report that a proxy vote may not be cast if the absent member has not been informed of the matter and has not "affirmatively requested" that he or she be recorded. The Armed Services; Budget;

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[63] For further explanation, see CRS Report RS22952, *Proxy Voting and Polling in Senate Committee*, by Christopher M. Davis.

[64] Walter Kravitz, *Congressional Quarterly's American Congressional Dictionary*, p. 193.

[65] *Riddick's Senate Procedure*, pp. 1197-1200.

Foreign Relations; Health, Education, Labor, and Pensions; and Homeland Security and Governmental Affairs Committees also made this requirement applicable to other proxy votes.

A rule of the Budget Committee disallowed proxy votes during budget resolution deliberations.

The Banking, Housing, and Urban Affairs Committee's rule on proxy voting required that a request for casting a vote by proxy be made in writing and be "sufficiently clear" in identifying the subject matter of the vote and how the member wished to be recorded. Prior to the vote, a member could by written notice withdraw his or her proxy request. Proxies were to be kept in committee files, along with the record of the roll-call vote. (See also, above, "Subcommittees' Reporting or Discharge.")

The Homeland Security and Governmental Affairs Committee's rule used the standard of "sufficient reference to the pending matter" for informing the committee. A committee rule also required proxy votes on any roll-call vote to be stated separately. On a vote to report in committee or subcommittee, the committee allowed proxy voting only to record a member's vote.

The Judiciary Committee's rule required a proxy to be "specific with respect to the matters it addresses."

Explanation of Table 8: Committee Proxy Voting Requirements, Senate Committees' Rules, 114th Congress

Table 8 compares committees' rules in the 114th Congress on the proxy voting requirements across the 16 standing Senate committees and the 2 additional permanent Senate committees with legislative authority. The 16 standing committees are listed in alphabetical order in the left-most column, and the 2 additional permanent committees are listed below. The heading contains key terms describing the committees' rules, as explained immediately below. A check in the box indicates that a committee adopted a rule or a closely related variation on it. An empty box indicates that a committee did not address that subject in its rules. Certain checks and boxes are footnoted to offer additional detail on a particular committee's rule. In some cases, a single footnote is used to give the same additional detail for the rule of more than one committee.

The following list explains the headings in **Table 8**:

- *In Writing* indicates that the committee's rule required proxy requests to be in writing.
- *Orally* indicates that the committee's rule permitted proxy requests to be conveyed orally.
- *Personal Instruction* refers to the allowance for a proxy vote in committee rules that did not specify how the proxy was conveyed and to a requirement in a committee's proxy rule—labeled personal instruction—that did not indicate more specifically how the proxy must be requested.
- *Telephone* indicates that a proxy request could be conveyed by telephone.

Table 8. Committee Proxy Voting Requirements, Senate Committees' Rules, 114th Congress

(in writing, orally, personal instruction, telephone)

Committee	In Writing	Orally	Personal Instruction	Telephone
Agriculture, Nutrition, & Forestry[a]			✓	
Appropriations[b]			✓	
Armed Services[c]	✓			
Banking, Housing, & Urban Affairs[d]	✓[e]			
Budget[a,f]			✓	
Commerce, Science, & Transportation[a]	✓		✓	
Energy & Natural Resources[g,h]			✓	
Environment & Public Works	✓[i]	✓[i]	✓[i]	
Finance[j]			✓[k]	
Foreign Relations[l]	✓[m]			
Health, Education, Labor, & Pensions[n]			✓	
Homeland Security & Governmental Affairs	✓			
Judiciary[a]	✓		✓	✓
Rules & Administration[n]			✓	
Small Business & Entrepreneurship	✓	✓	✓	
Veterans' Affairs	✓[o]			
Indian Affairs[p]			✓	
Intelligence	✓[q]			

Source: Prepared by the authors based on a review of Senate committees' rules, 114th Congress.

a. Allowed when a quorum was present.

b. Proxy votes allowed at member's request, except to report a bill.

c. Proxy voting allowed on "all measures and matters."

d. Allowed voting by proxy but required a majority to be actually present for a roll-call vote, and also required a majority of those present to concur on a vote to report.

e. That the proxy must be given in writing on a vote to report could be inferred from the text of the committee's rule. On a vote to report, a member must affirmatively request being recorded by proxy. A member could in writing withdraw a proxy for any vote.

f. No proxy votes were allowed during deliberations on a budget resolution.

g. Proxy votes could be exercised only on the date for which they are given and only on items published in the agenda for that date.

h. The committee could further limit proxy voting.

i. Written proxies were valid until revoked; oral proxies and proxies given by personal instruction were valid only on the date on which they were given.
j. Allowed voting by proxy but referenced limits in Rule XXVI, paragraph 7(a)(3) requiring a majority of those present to concur on a vote to report and a member casting a vote by proxy to have been informed on the matter and to have affirmatively requested being recorded.
k. At the committee's discretion, members neither present to vote nor voting by proxy could be polled in order to record their vote.
l. Allowed voting by proxy but referenced committee rule on reporting that required a majority of members to be physically present and for that quorum to include at least one member from each party. The member must also have been informed on the matter on which he or she wished to be recorded and must have affirmatively requested being so recorded.
m. Written proxies must have the signature of the absent member.
n. Although proxy voting on a motion to report was allowed, the concurrence of a majority of the members of the committee physically present was required to agree to the motion.
o. A member could "condition" his or her proxy with personal instructions; a proxy was valid only for one day.
p. "Unless further limited, a proxy shall be exercised only for the date for which it is given and upon the terms published in the agenda for that date."
q. The committee's rule had three criteria: the proxy request must be in writing, must designate the member to exercise the proxy, and must be limited to a specific measure or matter and amendments to it.

Polling

Polling the members of a committee indicates that all of the members were not together but that all were contacted, presumably by committee staff, for an affirmative or negative response on one or more questions. Polling results are typically intended for the internal use of a committee and are not reported to the Senate. Polling may also be an alternative to voting in person or by proxy that is available in some committees. Under its precedents, the Senate will not receive a committee's report where the vote to report was conducted by polling.[66]

The Agriculture, Nutrition, and Forestry Committee's rule stated that the committee may conduct a poll on committee business matters but not on votes on reporting a measure or matter or on closing a meeting or hearing. If a poll was conducted, every member of the committee must have been polled and each poll must have comprised the following two questions:

1. Do you agree or disagree to poll the proposal?
2. Do you favor or oppose the proposal?

If a member requested, a matter would be held for discussion during a meeting rather than polled. The clerk must keep a record of all polls.

The Budget Committee allowed for the polling of internal committee matters, steps in an investigation, and other committee business that was designated at a meeting for polling. To conduct a poll, the chair of the committee must circulate polling sheets to each committee member specifying the matter being polled and the time limit for completion of the poll. If a committee member requested, a matter would be held for a meeting rather than polled. The clerk was directed to keep a record of polls. After a poll, a member of the committee could move at the next business meeting to vote on the polled decision.

The Budget Committee's rule further provided that a measure or matter could not be reported by polling and a meeting or hearing could not be closed by polling. The record of a poll would be

[66] Ibid. See also CRS Report RS22952, *Proxy Voting and Polling in Senate Committee*, by Christopher M. Davis.

kept confidential if the committee subsequently by majority vote in open session determined that the matter polled was one of the enumerated bases for closing a meeting.

The Health, Education, Labor, and Pensions Committee's rule allowed polling on any committee business "as a matter of unanimous consent." Every committee member must be polled, and every poll must comprise two questions:

1. Do you agree or disagree to poll the proposal?
2. Do you favor or oppose the proposal?

The Homeland Security and Governmental Affairs Committee allowed for the polling of internal committee matters, steps in an investigation, and other committee business, except a motion to report or to close a meeting. The chair, or a committee member or staff officer designated by the chair, could poll committee members. If a member of the committee requested, a matter would be held for a meeting rather than polled. If a majority of the committee determined that a polled matter concerned one of the subjects that constitute a basis for closing a meeting, the record of the poll would remain confidential. A committee member could request a vote on the polled decision. The committee clerk was directed to maintain records of polls.

The Finance Committee's rule on polling was different from the purpose of the other committees with a polling rule. The committee's rules provided that, at the committee's discretion, members neither present to vote nor voting by proxy on a roll-call vote may be polled in order to record their vote.

(See also, above, "Subcommittees' Reporting or Discharge.")

Reports

Background and Procedural Setting

Once a committee votes to report a measure or matter—approves a motion to report—the committee typically writes and files with the Senate a report on the measure or matter. However, no Senate rule requires the preparation and filing of a report.[67]

A committee may report a measure or matter favorably, adversely, or without recommendation.[68] Unless directed to do so by the Senate, a committee does not need to report legislation or other matters. A measure or matter could be taken from a committee, nonetheless, by unanimous consent to discharge the committee from the item's further consideration or on a motion to discharge. Discharge is typically accomplished by unanimous consent, with the support of the committee and its members.[69]

A report is both an advocacy document for a measure or matter as reported by a committee and, when concerning legislation, an explanation and analysis of the legislation. For legislation reported by a committee, the explanatory information in a report might discuss the committee's actions leading up to reporting the legislation. Senate rules require that the analytical information be included.

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[67] *Riddick's Senate Procedure*, p. 1201. See also CRS Report 98-246, *Reporting a Measure from a Senate Committee*, by Elizabeth Rybicki.

[68] *Riddick's Senate Procedure*, p. 1194.

[69] For further explanation, see CRS Report RS22299, *Bypassing Senate Committees: Rule XIV and Unanimous Consent*, by Michael L. Koempel.

Although a bill or joint resolution containing subject matter within the jurisdiction of more than one committee will be referred to the single committee with jurisdiction over the predominant subject matter of the measure, a Senate rule limits the single committee's authority to propose amendments outside of its jurisdiction. The rule states that it is not in order for the Senate to consider a proposed committee amendment (other than a technical, clerical, or conforming amendment) that contains "any significant matter" not within the committee's jurisdiction. (Rule XV, paragraph 5.)

If a committee reports an amendment that is not within its jurisdiction, a point of order may lie against the amendment, and it would fall. A point of order would not likely lie against a bill for this amendment. Senate committees may also originate bills, which may allow them to include subject matter outside of their jurisdiction. Rule XV, paragraph 5 applies to amendments, not to bills. If a committee reports a measure that is called up on the Senate floor and the predominant subject matter of that measure is within another committee's jurisdiction, however, a point of order may lie against the measure, resulting in its referral to the committee of jurisdiction.[70]

A related rule prohibits the Appropriations Committee from reporting an appropriations bill containing amendments proposing new or general legislation or certain restrictions not authorized in law on the expenditure of the funds appropriated. If a point of order is made and sustained against an appropriations bill for violating this prohibition, the bill is recommitted to the Appropriations Committee. (Rule XVI, paragraph 2.) An Appropriations Committee report on a general appropriation bill must disclose specifically an item of appropriation in the bill not made to carry out existing law, a treaty, or a measure passed by the Senate during the session. (Rule XVI, paragraph 7.) Among other provisions of the rule, some provisions allow or restrict amendments.[71]

In addition, a rule of the Appropriations Committee authorizes a floor manager of an appropriations bill to make points of order against any amendments offered to the bill in violation of a Senate rule.

Required Contents

Senate Rules

Rule XXVI, paragraphs 10(c), 11, and 12 set forth many of the requirements for Senate committee reports.[72]

A committee report on a measure or matter must be filed as a single volume.[73] A supplemental report may be filed only to correct a technical error in a committee's report. A report must include all supplemental, minority, and additional views that were filed with the committee's clerk in a timely manner, and the cover page must indicate that these views are included in the report. (See,

[70] Martin B. Gold, *Senate Procedure and Practice*, pp. 71-72.

[71] For a brief, substantive discussion of the operation of Senate Rule XVI, see the relevant portion of CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*, by Jessica Tollestrup and Brian T. Yeh. See also CRS Report R41634, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, by Jessica Tollestrup and James V. Saturno; and CRS Report R42388, *The Congressional Appropriations Process: An Introduction*, by Jessica Tollestrup and James V. Saturno. Rule XVI contains provisions in addition to those cited here, pertaining specifically to floor consideration of appropriations measures.

[72] Additional content requirements for Senate reports appear in laws. For a compilation of requirements, see CRS Report 98-305, *Senate Committee Reports: Required Contents*, by Elizabeth Rybicki.

[73] The requirement of a *single report* also applies to reports on measures jointly referred. (Rule XVII, paragraph 3(b).)

immediately below, "Supplemental, Minority, and Additional Views.") Committee members wishing to file views must be allowed not fewer than three calendar days to do so. If no committee member notified the committee of his or her desire to file views at the time of a measure or matter's approval, the chair may file the report immediately with the Senate. (Rule XXVI, paragraph 10(c).)

When a report accompanies a public bill or joint resolution, except those reported by the Appropriations and Budget Committees, Rule XXVI, paragraph 11 specifies that the report must contain several components:

- An estimate of the cost of carrying out the measure in the fiscal year in which it was reported and in each of the five following fiscal years. If a measure authorizes a program for less than five years, the cost estimate must cover the period of the authorization. If the measure affects revenues, the report must contain only an estimate of revenues gained or lost for a one-year period;
- A comparison of the committee's cost estimate with that of any federal agency.
- In the absence of a cost estimate or cost comparison, a statement of why compliance with the requirement was "impracticable."

According to Rule XXVI, paragraph 11(b), a committee report, except those of the Appropriations Committee, must also contain the following:

- An evaluation of the regulatory impact of carrying out the measure. This evaluation should include an estimate of the number of individuals and businesses that would be subject to regulation; a determination of the groups and classes of these individuals and businesses; a determination of regulation's economic impact and impact on personal privacy of affected individuals, consumers, and businesses; and a determination of the additional paperwork resulting from regulation. The evaluation of the additional paperwork should include estimates of time and financial costs borne by "affected parties, showing whether the effects ... could be substantial" and estimates of recordkeeping requirements.
- In the absence of an evaluation of the regulatory impact, a statement of why compliance with the requirement was "impracticable."

It is not in order for the Senate to consider a bill or joint resolution if the committee's report on it does not comply with these two sets of requirements. (Rule XXVI, paragraph 11(c).)

In the 112th Congress, the Senate added a new requirement for the content of committee reports on public bills and joint resolutions. When legislation creates a new presidentially appointed position in a new or existing federal entity, the report on the legislation must contain an "evaluation and justification" for the position.[74]

The Homeland Security and Governmental Affairs Committee restated the provisions of Rule XXVI, paragraph 11(a) and (b) in its rules.

[74] The requirement was included in a resolution dealing with nominations (S.Res. 116 (112th Cong.)), appearing at § 73 in the *Senate Manual*.

Cordon Rule

A report on a bill or joint resolution that proposes to amend or repeal a statute or a portion of a statute must also contain (or be accompanied by) an analysis of changes to the statute. This analysis is known as the Cordon Rule.[75] The analysis must show text to be repealed and compare existing text to be amended with the amended text. The rule directs use of "stricken-through type and italics, parallel columns, or other appropriate typographical devices [to show] omissions and insertions which would be made by the bill or joint resolution if enacted in the form recommended by the committee." A committee may disregard this requirement by including a statement in its report that "in the opinion of the committee, it is necessary to dispense with the requirements ... to expedite the business of the Senate." (Rule XXVI, paragraph 12.)

Clean-Up Rule

A vote by a committee to report a measure or matter, adhering to the Senate rule,[76] obviates potential points of order against the measure or matter on the ground that one or more actions had not been taken in compliance with requirements of Senate rules. For example, a committee might have taken a vote, prior to the vote to report, that did not comply with Senate rules. Some term this rule the *clean-up rule*. (Rule XXVI, paragraph 7(a)(3).) Another rule states that, when reporting conformed with the requirements of Rule XXVI, paragraph 7, a point of order will not lie against a measure reported from committee (other than the Appropriations Committee) on the basis that hearings on the measure had not been conducted consistent with the provisions of Rule XXVI, paragraph 4. (Rule XVII, paragraph 4(b).)

Supplemental, Minority, and Additional Views

Senate Rule

At the time a measure or matter is approved by a committee, any member of that committee may give notice of his or her intention to file supplemental, minority, or additional views. Committee members are entitled to at least three calendar days in which to file these views in writing with the committee's clerk. These views must be included in the committee report on the measure or matter approved, and their inclusion must be recorded on the report's cover. The Appropriations Committee is exempted from the rule. (Rule XXVI, paragraph 10(c).)

Committees' Rules

Seven committees' rules contained a provision related to the inclusion of supplemental, minority, and additional views when reporting a measure, and one referenced the Senate's rule.

Rules of the Agriculture, Nutrition, and Forestry and Health, Education, Labor and Pensions Committees required an "appropriate opportunity" for the minority to examine the proposed text of a committee report prior to its filing or publishing. Rules of these committees also required an "appropriate opportunity" for the majority to examine supplemental, minority, and additional views prior to filing or publishing a report.

[75] Eponymously named for its author, Senator Guy Cordon of Oregon, who served in the Senate from 1944 to 1955.

[76] See "Voting" and "Proxy Voting," above.

The Budget; Foreign Relations; Health, Education, Labor, and Pensions; Homeland Security and Governmental Affairs; and Intelligence Committees' rules stated that at least three days must be allowed for supplemental, minority, and additional views to be filed and included in a report to the Senate. The rule of the Foreign Relations Committee designated that the three days begin tolling at 11 a.m. on the day the committee ordered a measure or matter reported. The rule of the Health, Education, Labor, and Pensions Committee stated that the three days begin tolling when the majority made the proposed text of the committee report available to the minority. The rule also authorized the chair and ranking minority member to agree to fewer than three days for the filing of views.

The Intelligence Committee's rule on reporting measures or matters stated that, in the absence of a unanimous decision, separate views or reports could be presented by a member or members in not less than three "working days."

The Budget; Foreign Relations; and Homeland Security and Governmental Affairs Committees' rules stated that, in the absence of timely notice, committee reports could be filed and printed without supplemental, minority, and additional views.

The Indian Affairs Committee's rule referenced the Senate rule permitting members to file views.

Recorded Votes

Senate Rule

Senate committees (except the Appropriations Committee) are required to keep a complete record of committee action, including the votes of members on any recorded vote that was demanded. The results of recorded votes on a measure and amendments to it must be included in the committee report on the measure, unless the committee previously announced the results. An announcement must report the total votes cast for and against each question and the vote of each committee member present. (Rule XXVI, paragraph 7(b).) The tabulation of a vote to report and the votes of each member on that vote must appear in a committee report. (Rule XXVI, paragraph 7(c).) (See also, above, "Voting in Committee" and, below, "Voting Records.")

Committees' Rules

The Armed Services Committee repeated the announcement language of the Senate rule in its rules.

A rule of the Energy and Natural Resources Committee required the roll-call vote on a motion to report a measure or matter to appear in the committee report but disallowed votes on amendments from being included in a committee report, unless the committee decided otherwise. The rule afforded a member who did not vote in a roll-call vote the opportunity to have his or her position recorded in the committee report or the appropriate committee record.

The Environment and Public Works Committee's rules contained a provision that required a committee report to contain the roll-call vote on the motion to report.

A rule of the Foreign Relations Committee required roll-call votes on a measure and amendments to it to appear in the committee report.

A rule of the Homeland Security and Governmental Affairs Committee required a vote on the motion to report to be included in a committee report. Other votes were also to be included in a committee report, unless previously announced by the committee.

The Intelligence Committee required the vote to report a measure or matter to be included in the committee report.

Earmarks Rule[77]

A Senate rule prohibits a vote on a motion to proceed to the consideration of a bill or joint resolution reported from a committee in the absence of a certification from the chair of the committee or the majority leader that each congressionally directed spending item, limited tax benefit, and limited tariff benefit in the measure or the accompanying report has been identified, including the name of the Senator who requested an item. This information must appear on a publicly accessible congressional website, in a searchable format, at least 48 hours before a vote.[78] If a point of order is sustained that this rule is being violated, the motion to proceed is suspended until there is compliance with the rule and the sponsor of the motion requests its resumption.[79] (Rule XLIV, paragraph 1.)

Another part of this rule imposes an affirmative responsibility on committees to identify on a publicly accessible congressional website each congressionally directed spending item, limited tax benefit, or limited tariff benefit in each reported bill or joint resolution, or its accompanying committee report, including the name of the Senator who requested an item. If a committee report containing this information is available on the Internet, that report satisfies the requirements of this rule. (Rule XLIV, paragraph 4(b).) Rule XLIV, paragraph 5 defines the terms *congressionally directed spending item*, *limited tax benefit*, and *limited tariff benefit*.

Another part of the rule directs each Senator who requests a congressionally directed spending item, limited tax benefit, and limited tariff benefit in a bill or joint resolution to provide a written statement to the chair and ranking minority member of the committee of jurisdiction. This statement is to include the Senator's name, the name and location of the intended beneficiary or location of the activity of a congressionally directed spending item, the intended beneficiaries of a limited tax or tariff benefit, the purpose of the item, and a certification that neither the Senator nor the Senator's immediate family has a pecuniary interest in the item. Committees of jurisdiction must make these certifications available for public inspection.[80] (Rule XLIV, paragraph 6.)

Filing

Senate Rules[81]

A Senate rule imposes a duty on committee chairs to promptly report a measure approved in their committee and take the necessary steps to bring a matter to a vote.[82] In addition, if a majority of a

[77] For further explanation, see CRS Report RS22867, *Earmark Disclosure Rules in the Senate: Member and Committee Requirements*, by Megan S. Lynch.

[78] Three options for waivers of provisions of Rule XLIV appear in its paragraphs 10, 11, and 12.

[79] Rule XLIV, paragraph 2 applies the same disclosure requirements and prohibition to an unreported measure. Paragraph 3 applies them to a conference report. If a congressionally directed spending item appears in the classified portion of a report accompanying a bill or joint resolution, a general description is allowed. (Rule XLIV, paragraph 7.)

[80] Rule XLIV, paragraph 9 explicitly prohibits Senators and employees of the Senate from pursuing a congressionally directed spending item, limited tax benefit, or limited tariff benefit for the individual's pecuniary interest or that of the individual's family.

[81] For an explanation of Senate floor procedures, see CRS Report 96-548, *The Legislative Process on the Senate Floor: An Introduction*, by Valerie Heitshusen.

[82] A unanimous consent request agreed to at the beginning of the current and preceding Congresses allowed Senators to (continued...)

committee files with the committee's clerk a request to report to the Senate a measure that was approved by the committee, the report must be filed with the Senate within seven days, counting from the day after the request was filed with the committee clerk. (Days that the Senate was not in session are not counted.) Once the request is filed, the committee clerk must immediately notify the chair of the request. The Appropriations Committee is exempted from this rule. (Rule XXVI, paragraph 10(b).)

Bills and joint resolutions reported from committee that have not been read must be read twice before being placed on the Senate Calendar. A Senate rule allows both readings of a measure to occur on the same day and for the measure to then be placed on the calendar if there is no objection. (Rule XIV, paragraph 4.) A report must be available to Senators for two days, excluding Sundays and holidays, before the measure or matter is considered, unless by unanimous consent.[83] (Rule XVII, paragraph 5.) A measure reported without a written report must lie over for one day before consideration, unless by unanimous consent.[84] (Rule XVII, paragraph 4(a).)

Committees' Rules

A rule of the Health, Education, Labor, and Pensions Committee restated the Senate rule on the chair's duty to report measures promptly and take necessary steps to bring a matter to a vote. The Budget; Foreign Relations; and Homeland Security and Governmental Affairs Committees' rules stated that reports must be filed "as soon as practicable" or "at the earliest practicable time."

Nominations

A large responsibility of Senate committees, not shared with House committees, is their consideration of presidential nominations to executive and judicial positions. Under the Constitution, the advice and consent authority belongs exclusively to the Senate.[85]

Referral: Background and Procedural Setting

The committees' jurisdictions do not detail their jurisdiction over specific presidential nominees requiring the advice and consent of the Senate; this jurisdiction is typically implied from committees' legislative jurisdiction.[86] The legislative jurisdictions of all but two of the committees encompassed by this report appear in Rule XXV, as supplemented by S.Res. 445

(...continued)

file reports at the desk with the Secretary of the Senate at any time on any day on which the Senate is in session. Another unanimous consent request agreed to at the beginning of the current and preceding Congresses allowed the Appropriations Committee to file reports on appropriations bills and joint resolutions during adjournments and recesses. The agreed-to request also permitted the committee to file notices of motions to suspend Rule XVI, pursuant to Rule V, related to offering certain amendments and directed that the amendments be printed. Senator Mitch McConnell, "Unanimous Consent Requests," remarks in the Senate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. S8.

[83] The rule also contains exceptions to the two-day layover.

[84] A measure or matter discharged from a committee's further consideration or placed on the Senate Calendar without having been referred to committee must also lie over for one day before consideration, unless taken up by unanimous consent. (Rule XVII, paragraph 4(a), and *Riddick's Senate Procedure*, p. 662, respectively.)

[85] U.S. Const. art. II, § 2, cl. 2.

[86] For further discussion of referral, also called reference, see CRS Report 98-242, *Committee Jurisdiction and Referral in the Senate*, by Judy Schneider; and *Riddick's Senate Procedure*, pp. 948-949 and 1150-1169.

(108th Congress).[87] The jurisdictions of the Select Committee on Intelligence and the Committee on Indian Affairs appear in Senate standing orders.[88]

A referral is most often made to one committee. Rule XXXI, paragraph 1 directs that referral of nominations be made to "appropriate" committees.[89] Referral to more than one committee has been accomplished by unanimous consent, standing order, and statute.[90]

The executive clerk assigns a number to a presidential message containing one or more nominations before the nomination or nominations are referred. Referral of nominations is made by the presiding officer (Rule XVII, paragraph 1), but, in practice, the Senate executive clerk performs this responsibility on the presiding officer's behalf. Although specific nominations, when received, are recorded in the Senate portion of the *Congressional Record*, no discussion typically occurs on the Senate floor in referring a nomination.[91]

A Senate standing order provides for expedited consideration of nominations to selected positions named in the standing order, without referral to committee. Such nominations, when received, are placed in a separate section of the Executive Calendar, called *Privileged Nominations*, with the notation of their status in the column "Information Requested by Committee." The chair of the committee of jurisdiction notifies the executive clerk when the appropriate biographical and financial questionnaires have been received from a nominee. The executive clerk then changes a nomination's status in the column "Requested Information Received." At any time while a nomination is listed in the privileged nominations section of the Executive Calendar, a Senator may request that the nomination be referred to the committee of jurisdiction and the referral will be made. The status of the nomination shows the request and the Senator who made it.

After 10 "session days," a nomination with the status of requested information received is placed in the *Nominations* section of the calendar, awaiting floor action. The *Reported By* column of this

[87] S.Res. 445 (108th Cong.), agreed to in the Senate on October 9, 2004, effective with the 109th Congress, appears in the *Senate Manual*, beginning on p. 97. (It also appears as a standing order in § 82 of the *Senate Manual*.) Among its provisions, S.Res. 445 contained changes to the jurisdiction of the Governmental Affairs Committee, which was renamed the Homeland Security and Governmental Affairs Committee, and to the jurisdiction of the Budget Committee.

[88] The standing order creating the Select Committee on Intelligence, as amended, appears in § 81 of the *Senate Manual*. The standing order creating the Committee on Indian Affairs appears in § 83.2 of the *Senate Manual*.

[89] Rule XXXI contains additional nomination procedures. For explanation of the referral and committee and floor consideration of presidential nominations, see CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki; and CRS Report R43331, *Majority Cloture for Nominations: Implications and the "Nuclear" Proceedings*, by Valerie Heitshusen. See also CRS Report RL30959, *Presidential Appointee Positions Requiring Senate Confirmation and Committees Handling Nominations*, by Christopher M. Davis and Michael Greene. CRS has numerous other reports on the nomination and confirmation process, including reports on nominations to specific positions such as the Supreme Court. See the CRS website at http://www.crs.gov.

[90] For example, after President Obama nominated Shaun Donovan to be Director of the Office of Management and Budget (OMB), the Budget Committee and the Homeland Security and Governmental Affairs Committee both held confirmation hearings on June 11, 2014. The Budget Committee reported the nomination favorably without a written report on June 24, 2014, and the Homeland Security and Governmental Affairs Committee reported it favorably without a written report on June 25. Pursuant to S.Res. 445 (which appears in the *Senate Manual* both appended to the Senate's rules and also as a standing order in § 82), the two committees have "joint jurisdiction" over nominations to the positions of director and deputy director of OMB. The resolution further provides that, once one committee orders a nomination reported, the other committee must report within 30 calendar days or be automatically discharged.

[91] A unanimous consent request agreed to at the beginning of the 114th Congress and preceding Congresses allows treaties and nominations to be referred to committee on the day they are received, even if the Senate has no executive session that day. Senator Mitch McConnell, "Unanimous Consent Requests," remarks in the Senate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. S8.

section shows that the nomination appears pursuant to the standing order (S.Res. 116 (112th Congress)).[92]

Committees' Rules on Processing Nominations

The Agriculture, Nutrition, and Forestry; Budget; Homeland Security and Governmental Affairs; and Small Business and Entrepreneurship Committees' rules dealing with nominations established a standard for each committee's inquiry into a nomination and for its recommendation of confirmation. The rules stated that the committees would inquire into a nominee's "experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated." The Budget and Homeland Security and Governmental Affairs Committees' rules stated that the committees would recommend confirmation of a nominee with the "necessary integrity" who the committee finds is "affirmatively qualified by reason of training, education, or experience to carry out the functions of the office to which he or she was nominated."

The Budget Committee's rule also provided for the possibility of a staff report for the chair, ranking minority member, and, upon request, other committee members. Such a report must summarize "steps taken and the results of the committee inquiry, including any unresolved matters" that were raised during the committee's inquiry.

The Finance Committee's rule stated that the committee would investigate or review a nominee's "experience, qualifications, and suitability to serve" in the position to which the individual was nominated.

Procedures in the Homeland Security and Governmental Affairs Committee

The Homeland Security and Governmental Affairs Committee's rule also established procedures for the committee to follow in investigating a nominee. It listed aspects of the nominee's record that the committee would examine: biographical information, financial information, actions taken or proposed to remedy conflicts of interest, and personal or legal matters bearing on qualifications. The chair and ranking minority member appoint majority and minority investigators to assist the committee in an inquiry. These investigators, along with the committee members, have access to any federal agency's investigative report on the nominee. Only the chair, ranking minority member, and other committee members requesting access would have access to a Federal Bureau of Investigation report. The committee could request the assistance of the Government Accountability Office and other entities.

Following the review of information, the designated investigators must prepare a report on judicial nominees[93] and may prepare a report on nonjudicial nominees for the chair and ranking minority member and, upon request, for another committee member. The report should summarize the committee's investigatory steps and findings from its inquiry, including unresolved matters. The procedures applicable to hearings and markups appear in the table below.

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[92] The standing order providing for expedited Senate consideration of nominations to specified positions appears in § 73 of the *Senate Manual*. See CRS Report 98-438, *The Senate's Executive Calendar*, coordinated by Elizabeth Rybicki; and CRS Report R41872, *Presidential Appointments, the Senate's Confirmation Process, and Changes Made in the 112th Congress*, by Maeve P. Carey.

[93] For an example of judicial nominations within the jurisdiction of the committee, see Hannah Hess, "Judicial Nomination Logjam Cause Dilemma for D.C.," *Roll Call*, September 18, 2014. For a list of District of Columbia court nominations within the jurisdiction of the committee, see CRS Report RL30959, *Presidential Appointee Positions Requiring Senate Confirmation and Committees Handling Nominations*, by Christopher M. Davis and Michael Greene, pp. 36-38.

The markup procedure in the committee's rule allows staff to make an oral presentation to the committee, "factually summarizing the nominee's background and the steps taken during the pre-hearing inquiry." (The procedures related to aspects of the inquiry of the nominee's record, the investigator's report, and hearings were waived for nominees to part-time positions, unless the chair and ranking minority decided otherwise.) (See also **Table 9**.)

On Adding a Nomination to an Agenda or Postponing Consideration

A rule of the Energy and Natural Resources Committee allowed a committee member through a written request to the chair to place a nomination on the agenda of the committee's next business meeting. The request must be made at least one week prior to the meeting. The rule also stated that the chair could place a nomination on the committee's agenda in the absence of a request. Once the agenda was published, three days before the meeting, no item could be added, unless by approval of a majority of members. The rule required the committee staff director to promptly notify absent members of action taken by the committee on any matter not on the published agenda.

A Judiciary Committee rule permitted a member or the chair to postpone the consideration of a nomination listed on the committee's agenda for the next meeting or for one week, whichever occurred later.[94]

On Parliamentary Formalities

The rules of the Armed Services and Intelligence Committees required that each committee member receive a copy of any nomination referred to the committee.

The Banking, Housing, and Urban Affairs Committee adopted procedures in 1981 on processing presidential nominations. The procedures are appended to the committee's rules but are not numbered with its rules. These procedures are reflected in **Table 9**.

A rule of the Foreign Relations Committee provided that committee proceedings in meetings on nominations, legislation, or other matters were to be conducted "without resort to the formalities of parliamentary procedure and with due regard for the views of all members." Issues in procedure were to be resolved by the chair, in consultation with the ranking minority member. In addition, the chair, in consultation with the ranking minority member, could propose special procedures for the committee's consideration of a specific matter.

Explanation of Table 9: Nomination Requirements, Senate Committees' Rules, 114th Congress

Table 9 compares committees' rules in the 114th Congress on nomination requirements across the 16 standing Senate committees and the 2 additional permanent Senate committees with legislative authority. The 16 standing committees are listed in alphabetical order in the left-most column, and the 2 additional permanent committees are listed below. The 3 rows of the heading contain key terms describing the committees' rules, as explained immediately below. A check in the box indicates that a committee adopted a rule or a closely related variation on it. An empty box indicates that a committee did not address that subject in its rules. Certain checks and boxes are

[94] See also CRS Report R43762, *The Appointment Process for U.S. Circuit and District Court Nominations: An Overview*, by Denis Steven Rutkus; and CRS Report RL34405, *Role of Home State Senators in the Selection of Lower Federal Court Judges*, by Barry J. McMillion and Denis Steven Rutkus.

footnoted to offer additional detail on a particular committee's rule. In some cases, a single footnote is used to give the same additional detail for the rule of more than one committee.

The following list explains the headings in **Table 9**:

- *Nominee Questionnaire* refers to the information included in a committee's inquiry about a nominee's experience, qualifications, integrity, and suitability for the position to which he or she has been nominated. (The information would be made public unless otherwise noted.)
  - *Biographical Information* refers to information relating to the nominee's education, employment, and achievements.
  - *Financial Statement* refers to a list of assets and liabilities of the nominee and, possibly, tax returns.
- Hearing Requirements
  - *Time* refers to the minimum amount time after receipt of a nominee's questionnaire before a hearing could be held.
  - *Testimony Under Oath* refers to testimony required to be under oath.
    - *Nominee*—if a hearing is held, the nominee was required to testify under oath.
    - *Other Witnesses*—if a hearing was held and witnesses other than the nominee were called, they would be required to testify under oath.
- *Time Prior to Consideration* refers to the minimum amount of time after a hearing before committee consideration of a nominee for confirmation. Alternately, if a hearing was not held, the minimum time required to schedule a meeting for consideration of a nominee.
- *Time Prior to Vote* refers to the minimum amount of time prior to a vote on a nomination, subject to the occurrence of an event named in the committee rule.

Table 9. Nomination Requirements, Senate Committees' Rules, 114th Congress

(nominee questionnaire, hearing requirements, time prior to consideration, and time prior to vote)

	Nominee Questionnaire		Hearing Requirements				
				Testimony Under Oath			
	Biographical Information	Financial Statement	Time	Nominee	Other Witnesses	Time Prior to Consideration	Time Prior to Vote
Agriculture, Nutrition, & Forestry[a]	✓[b]	✓	48 hours	✓		[c,d]	
Appropriations							
Armed Services							7 days[e]
Banking, Housing, & Urban Affairs	✓	✓[f,g]	5 days[h]	✓			24 hours[i]
Budget	✓	✓[j]	72 hours[k]	✓		72 hours	

	Nominee Questionnaire		Hearing Requirements				
				Testimony Under Oath			
	Biographical Information	Financial Statement	Time	Nominee	Other Witnesses	Time Prior to Consideration	Time Prior to Vote
Commerce, Science, & Transportation							
Energy & Natural Resources		✓[l]		✓	[m]		
Environment & Public Works							
Finance[a]	✓[b,n]	✓			[o]		
Foreign Relations	✓[p]	✓[q]		[r]		5 days[d]	
Health, Education, Labor, & Pensions	✓[s]	✓[s,t,u]	5 days[d]			5 days[d]	
Homeland Security & Governmental Affairs	✓[v]	✓[v,w]	72 hours[x]	✓		[c]	
Judiciary						[y]	
Rules & Administration							
Small Business & Entrepreneurship	✓[b,n]	✓		✓			
Veterans' Affairs	✓	✓[z,u]	5 days[d,aa]	✓	[m]	5 days[d,aa]	
Indian Affairs		✓[bb]		✓	[m]		
Intelligence	✓[cc]	✓[cc]	7 days[h]	[r]		14 days[e]	48 hours[i]

Source: Prepared by the authors based on a review of Senate committees' rules, 114th Congress.

a. All nominations would be considered by the full committee.

b. The committee could also request policy and other relevant information. In addition, the rule allowed the committee to determine which questionnaire information would be received confidentially.

c. A business meeting for consideration of the nominee could not be held on the same day that the hearing on the nominee was held.

d. The chair, with the concurrence of the ranking minority member, could waive this requirement.

e. Unless otherwise ordered by committee.

f. Nominee must use the committee-approved questionnaire.

g. Information would remain confidential.

h. The pause could be waived by a majority vote of the committee.

i. Following the committee's receipt of transcripts of the hearing; could be waived by unanimous consent.

j. Financial information that did not relate to the nominee's qualifications for the position, tax returns, and reports prepared by federal agencies remain confidential after being reviewed by the chair, ranking minority member, and any other committee member who requested to review them. The committee could also request "other relevant documents and responses to questions," in addition to biographical and financial information.

k. Following receipt not just of the questionnaire but also of a staff report on the nominee, if requested.

l. The report is made publicly available.

m. Upon any member's request.

n. Information submitted must be sworn.

o. Witnesses could be required to testify under oath.

p. The committee questionnaire must be signed and notarized.

q. In addition to biographical and financial information, the committee had other requirements: an investigation leading to a security clearance; an "ethics undertaking" related to the nominee's financial disclosure; assurance of the absence of interests at conflict with the interests of the government in the nominee's duties; a list of contributions in federal election campaigns by the nominee and the nominee's immediate family in the calendar year of the nomination and the preceding four years for nominees to be chief of mission, ambassador at large, or minister; and a report under the Foreign Service Act on the competence to perform the duties of the position of a nominee to be chief of mission.

r. The hearing must be open to the public, unless a majority of the committee decided otherwise, consistent with the Senate's open-meeting rule.

s. The nominee questionnaire was not required of nominees to less-than-full-time appointments when the committee determined that some or all of the information was irrelevant to the "nature of the position."

t. The financial statement of the nominee must also include the financial interests of a nominee's spouse and any children living in the same household. A nominee must use a form (for biographical and financial information) provided by the committee and swear to the "completeness and accuracy" of the information provided. Certain background and financial information could be waived for any nominees for whom the committee determined this information was not relevant to the nature of the position.

u. The financial statement remains confidential unless the committee determined the information was directly related to the nominee's qualifications.

v. At the discretion of the chair and ranking minority member, the committee would conduct a full examination of nominees to less-than-full-time appointments. Otherwise, these nominees would be exempt from the procedure described above (see "Procedures in the Homeland Security and Governmental Affairs Committee").

w. Tax returns for three years preceding the time of the nomination must be included, which would be held confidentially. The chair or ranking minority member would also request that the nominee submit a certified financial statement from an independent auditor. The committee would request other documents, such as "responses to questions on policies and programs the nominee intends to pursue" in office.

x. If a confidential report by the designated investigators of the chair and ranking minority member was required or ordered under committee rules, the 72 hours begin tolling once the questionnaire and the report have been received (see "Procedures in the Homeland Security and Governmental Affairs Committee").

y. At the request of any member or at the initiative of the chair, any nomination on the committee's agenda could be postponed until the next meeting or for one week, whichever occurred later.

z. The financial statement of the nominee must also include the financial interests of a nominee's spouse and any children living in the same household. A nominee must use a form (for biographical and financial information) provided by the committee and swear to the "completeness and accuracy" of the information provided.

aa. Not counting Saturdays, Sundays, and federal holidays.

bb. Nominees were to use a committee-approved form and swear to its accuracy and completeness. All nominee statements would be made public unless the committee in executive session determined special circumstances to withhold selected or all statements. Committee members were encouraged to complete the same form used by nominees.

cc. A nomination may not be reported to the Senate unless the nominee has submitted a background and financial disclosure statement. Each committee member must be promptly provided with a copy of each nomination referred to the committee.

Foreign Relations Committee's Treaty Procedures

The Foreign Relations Committee has the unique responsibility among all congressional committees to review treaties submitted by the President and report on them to the Senate. Under the Constitution, the Senate solely gives its advice and consent to the ratification of treaties.[95] Once the President submits a treaty to the Senate, the treaty remains on the committee's calendar, pursuant to committee rule, from Congress to Congress until action is taken to report the treaty to the Senate or to recommend its return to the President or until the Senate has discharged the committee from further consideration of the treaty. Proceedings on treaties that were reported to the Senate but not acted on terminate at the end of a Congress; they resume at the convening of the next Congress as if no proceedings had occurred earlier. Under the committee's rule, the committee should conduct a public hearing as soon as possible after receiving a treaty from the President. Except in extraordinary circumstances, under the committee rules, treaties reported to the Senate should be accompanied by a written report.[96]

Committees' Other, Related Responsibilities

Senate Rule on Funding Authorization Resolution

Each committee is directed by a Senate rule to report annually a funding authorization resolution for its expenses, covering March 1 of one year to the last day of February of the next year. The rule directs committees to report a funding resolution by January 31. If, however, during the first session of a Congress, members of standing committees are designated after January 20, a resolution must be reported not later than 30 days after the designation of members has been completed. The rule also provides for the possibility of a committee requesting a supplemental authorization. (Rule XXVI, paragraph 9(a).)

Alternatively, under the rule, the Rules and Administration Committee may direct each committee to report a two-year authorization resolution (for the period beginning March 1 of the first session of a Congress) or to report more than one authorization resolution in a one-year or two-year budget period.[97] (Rule XXVI, paragraph 9(b).)

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[95] U.S. Const. art II, § 2, cl. 2.

[96] Rule XXX contains treaty procedures. For an explanation of the Senate's role in treaty making, see U.S. Congress, Senate Committee on Foreign Relations, *Treaties and Other International Agreements: The Role of the United States Senate*, committee print, prepared by the Congressional Research Service, 106th Cong., 2nd sess., January 2001, S.Prt. 106-71 (Washington: GPO, 2001). See also CRS Report 98-384, *Senate Consideration of Treaties*, by Valerie Heitshusen; CRS Report IN10181, *President Obama's November 2014 Visit to China: The Bilateral Announcements*, by Susan V. Lawrence, Jane A. Leggett, and Wayne M. Morrison; and CRS Report 97-896, *Why Certain Trade Agreements Are Approved as Congressional-Executive Agreements Rather Than Treaties*, by Jane M. Smith, Daniel T. Shedd, and Brandon J. Murrill.

A unanimous consent request agreed to at the beginning of the 113th Congress and preceding Congresses allows treaties and nominations to be referred to committee on the day they are received, even if the Senate has no executive session that day. Senator Mitch McConnell, "Unanimous Consent Requests," remarks in the Senate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. S8.

[97] For further explanation, see CRS Report R43160, *Senate Committee Funding: Description of Process and Analysis of Disbursements*, by Matthew E. Glassman and Lara E. Chausow; and CRS Report R40424, *Senate Committee Expenditures Resolutions, 114th Congress, and Funding Authorizations Since 1999*, by Matthew E. Glassman.

Senate Rule on Activity Reports

Once in each Congress, by March 31 of each odd-numbered year, each committee must submit to the Senate a report on the committee's activities for the Congress that ended on January 3 of that year. (Rule XXVI, paragraph 8(b).) (See also, above, "Oversight.")

Other Reports Required by Standing Order

The Intelligence Committee is directed in the standing order creating it to report not less than quarterly to the Senate on the "nature and extent of intelligence activities of the various departments and agencies of the United States."[98]

A standing order requires the Rules and Administration Committee in the second session of each Congress to submit a report to the Senate containing the results of its continuing review of the Senate committee system, the standing rules, and other rules of the Senate.[99]

Standing Order Allowing Committees to Bring Lawsuits

Committees are authorized to bring lawsuits on behalf of and in the name of the United States if the committee determines that such a suit is "necessary to the adequate performance of the powers vested in it or the duties imposed upon it by the Constitution, resolution of the Senate, or other law."[100]

Additional Duties of the Rules and Administration Committee

Various Senate rules and standing orders assign additional duties to the Rules and Administration Committee. The committee has jurisdiction over the committee funding authorization resolutions, described above (see "Senate Rule on Funding Authorization Resolution"). Additional duties include, among others, exercising jurisdiction over resolutions or motions for printing documents (Rule XI, paragraphs 4 and 5); conducting a continuing review of the Senate committee system (see, above, "Other Reports Required by Standing Order"); promulgating regulations on gifts to the Senate and accepting gifts on the Senate's behalf;[101] directing the Secretary of the Senate in the secretary's orderly closing of a Senator's office in the event of the Senator's death or resignation;[102] establishing documentation requirements for reimbursements[103] and regulating other disbursements by Senators and committees; and making regulations for the Senate wing of the Capitol, including the press galleries (pursuant to authority under Rule XXXIII).[104]

A rule of the committee authorized the chair to issue on behalf of the committee "regulations normally promulgated by the committee at the beginning of each session."[105] Another committee

[98] Appearing, as amended, in § 81 of the *Senate Manual*.

[99] This provision was included in the Committee System Reorganization Amendments of 1977. It appears as a standing order in § 83.5 of the *Senate Manual*.

[100] Appearing as a standing order in § 85 of the *Senate Manual*.

[101] By standing order appearing in § 84 of the *Senate Manual*. See also CRS Report RS22891, *Office of Senate Legal Counsel*, by Matthew E. Glassman.

[102] By standing order appearing in § 95 of the *Senate Manual*.

[103] By standing order appearing in § 106 of the *Senate Manual*.

[104] Regulations appear in the *Senate Manual* beginning at § 150.

[105] The chair was also authorized to sign on his own initiative or upon delegation to him "vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business."

rule delegated to the chair and ranking minority member joint authority to approve on the committee's behalf rules and regulations for which the committee's approval was required. The chair and ranking minority member, however, were required to give advance notice to committee members of their intention to grant approval.

Armed Services Committee's Real Property Transaction Responsibilities

The Armed Services Committee's rules had a special provision regarding "real property transactions." The rule stated that each member of the committee must be given a copy of proposals for acquisition or disposition of property (made pursuant to enumerated provisions of law) with an estimated price or rental exceeding $50,000 submitted by the secretaries of the Army, Navy, or Air Force or by the director of the Federal Emergency Management Agency. If a committee member objected to or requested information on the property, the objection or request was to be communicated to the chair of the committee within 30 days of submission of the proposal.

Coinage Legislation and the Banking Committee

A rule of the Banking, Housing, and Urban Affairs Committee conditioned its consideration of a gold medal or commemorative coin bill upon the bill's cosponsorship by 67 Senators.

Statutory Authority and the Environment and Public Works Committee

The Environment and Public Works Committee included several statutory provisions and policy guidelines in its rules. First, the committee must receive a final environmental impact statement, required by the National Environmental Policy Act, and the written comments of the administrator of the Environmental Protection Agency prior to approval or action on a project or legislation proposed by an executive agency.

Second, the committee must publish in the *Congressional Record* and periodically as a committee print a report describing any project authorized by the committee under the Rivers and Harbors Act, the Watershed Protection and Flood Prevention Act, or the Public Buildings Act and the reasons for the project's approval. In addition, proponents of a committee resolution authorizing a project must submit "appropriate evidence" in support of the resolution.

Third, the committee must act on a prospectus under the Public Buildings Act submitted by the General Services Administration (GSA) in the same session of Congress in which the prospectus was submitted. A prospectus rejected by majority committee vote or not reported to the Senate during the session is returned to GSA and must be resubmitted in the next session of Congress. Further, a building project survey submitted by GSA under the Public Buildings Act will not be considered by the committee to be a prospectus subject to committee approval.

Fourth, the committee disallows naming a "building, structure, or facility" for any living person, except for former Presidents and Vice Presidents, former Members of Congress over 70 years of age, former Justices of the Supreme Court over 70 years of age, and former federal judges who are retired or have taken senior status and are over 75 years of age.

Homeland Security and Governmental Affairs Committee Procedures to Name Postal Facilities

A rule of the Homeland Security and Governmental Affairs Committee prohibited the committee from considering legislation to name a postal facility for a living person, except for living former Presidents and Vice Presidents; former Members of Congress, state and local officials, and judges over 70 years of age; and wounded veterans.

Veterans' Affairs Committee Procedures to Name Department of Veterans' Affairs Facilities

The Veterans' Affairs Committee included in its rules a statement of policy on naming facilities of the Department of Veterans' Affairs. First, a facility would not be named after an individual unless that person was deceased. Second, a facility would not be named after an individual unless that person was—

- a veteran instrumental in the construction or operation of the facility, a Medal of Honor recipient, or determined by the chair and ranking minority member to have performed military service of an "extraordinarily distinguished career";
- a Member of Congress who had a direct association with the facility;
- an Administrator or Secretary of Veterans' Affairs, a Secretary of Defense or a secretary of a service branch, or a military or civilian office of comparable or higher rank; or
- an individual who performed "outstanding service" for veterans, as determined by the chair and ranking minority member.

Third, each Member of Congress representing the state in which the facility was located needed to indicate in writing his or her support for naming the facility after the individual. Fourth, the state department or chapter of each congressionally chartered veterans' organization (with a national membership of at least 500,000) needed to indicate in writing that it supported naming the facility after the individual.

Intelligence Committee's Non-Legislative Actions

A rule of the Intelligence Committee allowed "routine, non-legislative actions required of the Committee" to be taken by the committee with procedures approved under its rules.

Amending Committee Rules

Ten committees' rules specifically included provisions regarding amendments to committee rules after the rules for a new Congress had been published in the *Congressional Record*.

The Agriculture, Nutrition, and Forestry Committee's rules stated that the committee's rules could be modified, amended, or repealed as long as all members were present or provided proxies at a meeting or if a written notice of the proposed rule changes had been given to each committee member at least 48 hours prior to a meeting to consider the rule change. If approved by the committee, a rule change was effective upon publication in the *Congressional Record* or upon approval as long as any witness who could have been affected by the change was provided with the amended rule.

The Energy and Natural Resources Committee's rules stated that the committee's rules could be amended only by a majority vote of all of committee members. No vote could be taken on any proposed amendment unless the amendment was reproduced in full in the committee agenda at least three days in advance of the meeting to consider it.

The Environment and Public Works Committee's rules stated that the committee's rules could be added to, modified, amended, or suspended by a majority vote of the committee at a business meeting, a quorum being present. The rule of the Health, Education, Labor, and Pensions Committee was the same, except that it used the term "majority" rather than the phrase "vote of the majority" concerning approval of an amendment.

The Finance Committee's rules stated that the committee's rules could be added to, modified, amended, or suspended at any time.

The Foreign Relations Committee's rules provided that the committee's rules could be modified, amended, or repealed by a majority of the committee if a notice in writing of the proposed change was delivered to each member of the committee at least 72 hours prior to the meeting for consideration of the change.

The Small Business and Entrepreneurship and Veterans' Affairs Committees' rules specified that the committees' rules could be added to, modified, or amended if not less than a majority of the entire committee so determined at a meeting with "due notice" or at a meeting specifically called to address the proposed change. The Veterans' Affairs Committee's rules also stated that the rules governing reporting quorums for legislative matters applied to "rules changes, modification, amendment, or suspension."

The Indian Affairs Committee's rules provided that the committee's rules could only be amended by a majority vote of all committee members. No vote could be taken on a proposed amendment unless the amendment was reproduced in full in the committee agenda at least seven days prior to the meeting to consider the proposed amendment.

The Intelligence Committee's rules stated that the committee's rules could be modified, amended, or repealed so long as a written notice had been delivered to each committee member at least 48 hours prior to the meeting in which a proposed change would be considered.

Committee Records

Senate Rules

A Senate rule requires that all committee hearings, records, data, charts, and files be kept separate from the congressional office records of the chair. Committee records are the property of the Senate, and all committee members and all Senators may have access to them. (Rule XXVI, paragraph 10(a).)

A rule directs the Secretary of the Senate to obtain the noncurrent records of each Senate committee and transfer them for preservation to the General Services Administration, subject to orders of the Senate.[106] (Rule XI, paragraph 2.)

(See also, above, "Confidential and Classified Testimony and Materials.")

[106] See also the standing order of the Senate, "Public Access to Senate Records at the National Archives," which appears in § 135 of the *Senate Manual*.

Voting Records

Senate Rule

Senate committees are required to keep a complete record of committee action, including the votes of members on any recorded vote demanded. The results of recorded votes on a measure and amendments to it must be announced in the committee report on the measure, unless the committee had previously announced the results. An announcement must report the total votes cast for and against each question and the vote of each committee member present. The Appropriations Committee is exempt from this requirement. (Rule XXVI, paragraph 7(b).) The tabulation of a vote to report and the votes of each member on that vote must appear in a committee report. (Rule XXVI, paragraph 7(c).) (See also, above, "Voting in Committee" and "Recorded Votes.")

Committees' Rules

The Agriculture, Nutrition, and Forestry; Budget; and Homeland Security and Governmental Affairs Committees' rules stated that the clerk of the committee must keep committee polling records. The Banking, Housing, and Urban Affairs Committee required that proxy requests be kept with records of roll-call votes.

The Energy and Natural Resources Committee's voting rule allowed members who did not vote on a roll-call vote to record a position in the appropriate committee record. An Environment and Public Works Committee rule was similar.

A rule of the Health, Education, Labor, and Pensions and Veterans' Affairs Committees required meeting records to include the record of each roll-call vote.

Transcripts of Meetings and Printed Hearings

Senate Rules

A Senate rule directs each committee to keep a transcript or electronic recording "adequate to fully record the proceeding of each meeting or conference." This record must also be made and kept for meetings or portions of meetings that are closed. A majority of a committee's members, however, may vote to forgo a record. (Rule XXVI, paragraph 5(e)(1).)

Every committee and subcommittee is to make available on the Internet a video or audio recording or a transcript of any meeting that is not closed to the public within 21 days of the meeting's occurrence. This availability must continue until the end of the Congress in which the meeting was held. A committee or subcommittee may seek a waiver of this requirement from the Rules and Administration Committee based upon its inability to comply for "technical or logistical reasons." (Rule XXVI, paragraph 5(e)(2).)

Committees are authorized to have testimony and exhibits presented at hearings printed and bound. (Rule XXVI, paragraph 10(a).) Committees are exhorted to "make every reasonable effort" to have hearings on a measure or matter reported by a standing committee printed and available to Senators prior to the Senate's consideration of that measure or matter. (Rule XVII, paragraph 5.)

Committees' Rules

The Agriculture, Nutrition, and Forestry Committee's rules stated that the committee would keep transcripts of meetings and hearings, unless a majority of the committee or subcommittee agreed on another form of permanent record.

The Commerce, Science, and Transportation Committee's rule stated that the transcripts could be in either electronic or stenographic form in the committee record. The rule also required electronic or stenographic records of testimony in open and closed hearings and depositions. In the instance of a deposition, the individual who administered the oath must certify on the transcript that the witness was sworn in, and the transcriber must certify that the transcription was a true record of the testimony; the transcript with the certifications must be filed with the committee clerk.

The Energy and Natural Resources Committee required that a transcript be kept of each hearing but allowed a majority of the committee to select another form of permanent record than a transcript for a meeting.

The Finance Committee's rule required a record of all committee markups and allowed an uncorrected transcript, so labeled, to be available to Senators, members of the committee, and committee members' staffs. Within 21 days of a meeting, the committee would make available through the Internet a video or audio recording or a corrected transcript, committee members having had the opportunity to make grammatical corrections or corrections to "accurately reflect statements."

In addition, the record of an executive session of the Finance Committee could be made public only by majority vote of the committee and only after members had the opportunity to correct grammatical errors or to make corrections to "accurately reflect statements made."

A rule of the Foreign Relations Committee required the committee to keep verbatim transcripts of all committee and subcommittee meetings and for transcripts to remain in the possession of the committee, unless the committee determined otherwise. Transcripts of open hearings must be published, unless the chair, with the concurrence of the ranking minority member, determined otherwise. Another committee rule required the chief clerk to retain a copy of materials submitted to the committee by the executive branch and for those materials to remain in the custody of the committee, subject to committee rules and procedures. Transcripts and materials were to be available to committee members, committee staff, and designated staff of committee members. (See, above, "Rules of the Foreign Relations Committee" under "Confidential and Classified Testimony and Materials.")

The Health, Education, Labor, and Pensions Committee's rule required a transcript or electronic recording of every meeting, including conference meetings, whether the meetings were open or closed, unless a majority of members voted to forgo a record. Records must be available for inspection by any committee member.

The Homeland Security and Governmental Affairs Committee's rule required a transcript or electronic recording of every meeting, whether the meetings were open or closed, unless a majority of members voted to forgo a record. A committee rule also required an electronic or stenographic record of witnesses' testimony, whether the testimony occurred in an open or closed hearing.

The Veterans' Affairs Committee required a transcript or electronic recording of every meeting, whether or not any part of the meeting was closed.

The Indian Affairs Committee's rule stated that a transcript or electronic recording would be kept of each hearing and meeting, except as otherwise provided in Senate rules.

The Intelligence Committee in its rules directed the committee staff director to keep a "record" of all committee proceedings.

(See also, above, "Confidential and Classified Testimony and Materials" and "Correcting Transcripts.")

Legislative Calendars

The Armed Services Committee in its rules directed the committee clerk to maintain a printed calendar of bills introduced and referred to the committee and the status of these bills. Its rules also directed the clerk to update the calendar from "time to time" to provide current information on bill referrals and bill status. Calendars were to be provided to each committee member. A rule of the Intelligence Committee was similar.

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