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# House Rules Changes Affecting Committee Procedure in the 117<sup>th</sup> Congress (2021-2022)

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## House Rules Changes Affecting Committee Procedure in the 117<sup>th</sup> Congress (2021-2022)

As agreed to in the House, H.Res. 8, a resolution adopting the rules of the House of Representatives, provided amendments to the rules, as well as separate orders, that affect committee procedure in the 117<sup>th</sup> Congress (2021-2022). Several of these changes apply to general committee procedure, including legislative and oversight authority, while others concern specific committees, such as modifications to committee requirements, jurisdictions, or service limitations. The rules package also established one select committee and reauthorized two select committees and one select subcommittee.

H.Res. 8 changed or clarified procedures related to committee hearings and markup meetings. Among those changes, it amended House rules to require, “to the extent practicable,” witnesses to submit financial disclosures prior to testifying before committees. It codified in the standing rules a separate order from the 116<sup>th</sup> Congress to require hearings and markups for certain bills and joint resolutions being considered under the terms of a special rule. It made explicit that subcommittee hearings may be held to fulfill the Member Day hearing requirement carried over from the 116<sup>th</sup> Congress, and it clarified the prohibition against the use of recorded committee proceedings for partisan campaign purposes.

As amended, House rules in the 117<sup>th</sup> Congress explicitly state that committees (and chairs, if authorized) may issue subpoenas to any individuals within the United States and specifically, the current or former President or Vice President and their current or former employees. Furthermore, committees and chairs may issue subpoenas in a succeeding Congress if the chair or committee was authorized to do so in the preceding Congress.

In regard to the public availability of legislative text, H.Res. 8 requires committees, in the 117<sup>th</sup> Congress, to make publicly available the text of *all* amendments offered in markup meetings, including failed or withdrawn amendments. (Previously, committees were required to post only agreed-to amendments.) It removed the requirement that committees make their record votes available for “inspection by the public” in their offices. In the 117<sup>th</sup> Congress, it is sufficient for committees to post their votes on House-sponsored websites.

The rules package carried forth provisions in H.Res. 965 (116<sup>th</sup> Congress), which enabled, pursuant to a special order, remote committee proceedings during pandemic “covered periods.” In addition, it amended the rules to allow committees to file reports electronically and to accept electronic signatures on certain committee documents. These amendments codified practices that were temporarily permitted in the 116<sup>th</sup> Congress pursuant to H.Res. 965.

H.Res. 8 established the Select Committee on Economic Disparity and Fairness in Growth. It also reauthorized the Select Subcommittee on the Coronavirus Crisis, the Select Committee on the Climate Crisis, and the Select Committee on the Modernization of Congress. In addition, the rules package made minor changes specific to the Committees on House Administration, Armed Services, and Ethics.

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## Introduction

On January 4, 2021, the House agreed to H.Res. 8, the rules package for the 117<sup>th</sup> Congress (2021-2022). H.Res. 8 readopted the standing rules of the previous Congress, with amendments, and also established several new standing orders.<sup>1</sup>

This report analyzes the changes to House rules in the 117<sup>th</sup> Congress that affect House committees, including changes to general committee procedures and procedures affecting specific standing or select committees or subcommittees.<sup>2</sup> It identifies procedures that have been altered or removed, as well as additions and clarifications to House rules as compared to standing rules in force during the 116<sup>th</sup> Congress (2019-2020).<sup>3</sup>

## General Committee Procedure

### Hearings and Markup Procedure

#### “Truth-in-Testimony” Witness Statements

H.Res. 8 amended Rule XI, clause 2(g)(5), subparagraphs (B) and (D), to augment the existing requirements for “truth in testimony” statements submitted by certain witnesses appearing before House committees. Several changes were made to increase disclosure requirements for non-governmental witnesses. Additionally, in the 117<sup>th</sup> Congress, the statements of governmental and non-governmental witnesses are to be made publicly available prior to the appearance “to the extent practicable.”

As amended, subparagraph (B) expands the requirements for witnesses appearing in a non-governmental capacity to include disclosure of grants, in addition to payments and contracts,

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<sup>1</sup> The House agrees to its standing rules as one of the first orders of business at the start of each new Congress. Generally, as in H.Res. 8, the House agrees to the same rules as the previous Congress, with amendments to those rules and separate orders packaged as a simple House resolution. Separate orders are provisions that have the same force and effect as rules but are not codified in the standing rules of the House. They generally remain in effect for the duration of the Congress unless a subsequent resolution provides for their adjustment.

<sup>2</sup> This report does not address changes related to the budget process, floor procedure (unless affected by committee procedure), separate orders that are the same as those agreed to in the 116<sup>th</sup> Congress (e.g., a separate order regarding deposition authority), or the administration of Congress (i.e., the establishment and duties of the Office of Diversity and Inclusion and the Office of the Whistleblower Ombuds, modifications to the Code of Official Conduct, employee training and protections, and congressional member organizations). For information about changes to budget and appropriations procedure, see CRS Report R46659, *Changes to House Rules Affecting the Congressional Budget Process Included in H.Res. 8 (117th Congress)*, by Megan S. Lynch and James V. Saturno. For information about changes to floor procedure, see CRS Report R46790, *House Rules Changes Affecting Floor Proceedings in the 117th Congress (2021-2022)*, by Jane A. Hudiburg.

<sup>3</sup> See H.Res. 8; U.S. Congress, House, *Rules of the House of Representatives, One Hundred Seventeenth Congress*, prepared by Cheryl L. Johnson, Clerk of the House of Representatives, 117<sup>th</sup> Cong., 1<sup>st</sup> sess., 2021; U.S. Congress, House, *Constitution, Jefferson’s Manual and the Rules of the House of Representatives of the United States One Hundred Sixteenth Congress* (hereinafter *House Manual*, 116<sup>th</sup> Congress), 115<sup>th</sup> Cong., 2<sup>nd</sup> sess., 2019 (Washington: GPO, 2019); U.S. Congress, House Committee on Rules, H.Res. 8, *Adopting the Rules for the 116<sup>th</sup> Congress, Section-by-Section Analysis* (hereinafter *Section-by-Section*), 117<sup>th</sup> Cong., 1<sup>st</sup> sess., 2021; and Charles W. Johnson, John V. Sullivan, and Thomas J. Wickham Jr., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* (Washington: GPO, 2017). For information on changes to committee procedure in the 116<sup>th</sup> Congress, see CRS Report R45731, *House Rules Changes Affecting Committee Procedure in the 116th Congress (2019-2020)*, by Jane A. Hudiburg.

awarded by foreign governments. Furthermore, in the 117<sup>th</sup> Congress witnesses must disclose whether they are fiduciaries of any organization or entity “that has an interest in the subject matter of the hearing.”<sup>4</sup>

Subparagraph (B) was also amended to specify that non-governmental witnesses must disclose such applicable grants, contracts, or payments received by the witness, or service as a fiduciary of an applicable organization or entity, during the past 36 months. In prior Congresses, the look-back period covered “the current year or either of the two previous calendar years.”<sup>5</sup> Thus, if the hearing took place in January, the disclosure period could be as short as 25 months. In the 117<sup>th</sup> Congress, the rules provide for a full three-year period regardless of how early in a calendar year the hearing takes place.

Subparagraph (D) was amended to make a witness’s statement, “to the extent practicable,” publicly available 24 hours in advance of the witness’s appearance before the committee. If the statement is not posted prior to the appearance, the availability must occur “not later than one day after the witness appears.” Previously, this provision required witnesses’ statements to be available “not later than one day after” their appearance before the committee.

## **Required Markup for Certain Bills and Joint Resolutions**

H.Res. 8 codified in House rules a separate order previously contained in the 116<sup>th</sup> Congress rules package (H.Res. 6) that required certain bills and joint resolutions to be reported and be subject to related committee hearings and markups prior to floor consideration. Otherwise, “it shall not be in order” to consider them on the House floor pursuant to a special rule reported by the Committee on Rules.<sup>6</sup> These changes in procedure, contained in a new subparagraph of clause 3(c) of Rule XIII and a new clause (12) of Rule XXI, are not in effect before March 1 of an odd-numbered year. However, for the 117<sup>th</sup> Congress, the effective date of the provision was moved to April 1, 2021, pursuant to a separate order.<sup>7</sup>

In the 117<sup>th</sup> Congress, for a bill or joint resolution to be considered under the terms of a special rule, it must be reported by a committee (clause 12, Rule XXI), and the accompanying committee report must include a list of related committee and subcommittee hearings with at least one hearing designated as used to develop or consider the measure (clause 3(c)(6), Rule XIII). As in the previous Congress, these provisions do not apply to measures that continue appropriations for a fiscal year, contain an emergency designation under Section 251(b)(2) or Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, are not referred to committee, or are listed on the Consensus Calendar and are designated for consideration (clause 7, Rule XV).<sup>8</sup>

These rules changes require most bills and joint resolutions to go through the committee hearing and markup process before being considered under the terms of a special rule. However, the House could use other procedures to consider legislation that avoids these requirements. Special rules can include “waivers” of all or certain types of points of order against consideration of a bill

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<sup>4</sup> As amended, Rule XI, clause 2(g)(5) defines *fiduciary* as “(including, but not limited to, a director, officer, advisor, or resident agent) of any organization or entity that has an interest in the subject matter of the hearing.”

<sup>5</sup> *House Manual*, 116<sup>th</sup> Congress, §798.

<sup>6</sup> For more information about the use of special rules, see CRS Report R43424, *Considering Legislation on the House Floor: Common Practices in Brief*, by Elizabeth Rybicki.

<sup>7</sup> According to a summary prepared by the Rules Committee majority staff, the separate order delayed the effective date of the rule “because of the challenges facing committees operating during a pandemic;” *Section-by-Section*; H.Res. 8.

<sup>8</sup> For information about procedures related to the Consensus Calendar, see CRS Report R46485, *The House Consensus Calendar: Establishment, Principal Features, and Practice in the 116th Congress (2019-2020)*, by Jane A. Hudiburg.

and could presumably waive these new hearing, markup, and reporting requirements. Alternatively, a measure with supermajority support could be taken up under the suspension of the rules procedure or by unanimous consent and not be subject to the hearing or markup requirement.<sup>9</sup>

### **Member Day Hearing Requirement**

Pursuant to a separate order contained in H.Res. 8, most committees are mandated, as in the 116<sup>th</sup> Congress, to hold at least one Member Day hearing. For the 117<sup>th</sup> Congress, the separate order clarifies that hearings held in subcommittees may be used to fulfill this requirement.<sup>10</sup> The separate order states, in part, that “each standing committee (other than the Committee on Ethics) or each subcommittee thereof (other than a subcommittee on oversight) shall hold a hearing at which it receives testimony from Members, Delegates, and the Resident Commissioner on proposed legislation within its jurisdiction.”<sup>11</sup>

The standing committees are to hold a Member Day hearing in the first session of the Congress, except the Committee on Rules, which “may hold such hearing during the second session.” According to the *Section-by-Section* analysis of H.Res. 8, the Committee on Rules holds its Member Day hearing in the second session “in order to receive testimony on proposed changes to the standing rules for the next Congress.”<sup>12</sup>

### **Restricted Use of Audio and Video Recordings**

H.Res. 8 expanded the restriction against using broadcast coverage of committee hearings and markups in political campaigns. Pursuant to clause 4 of Rule XI, committees are to broadcast, by audio and visual means, hearings and meetings that are open to the public and to adopt, in their rules, specific regulations related to those broadcasts. As stated in the rule, the purpose of broadcasting committee proceedings is to provide a means for the “education, enlightenment, and information of the general public.”<sup>13</sup> Accordingly, it is “the intent” of clause 4 that Members are not to use these recordings for political purposes.

H.Res. 8 struck the phrase *radio and television tapes and television film* in clause 4(b) and replaced it with *audio and video recordings*. Thus, recordings of committee proceedings, regardless of the technology involved, are not to be used for “any partisan political campaign purpose or be made available for such use.”

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<sup>9</sup> See CRS Report R46364, *Suspension of the Rules: House Practice in the 115th Congress (2017-2018)*, by Jane A. Hudiburg.

<sup>10</sup> In the 116<sup>th</sup> Congress, the separate order in H.Res. 6 did not contain the phrase *or each subcommittee thereof (other than a subcommittee on oversight)*.

<sup>11</sup> H.Res. 8 (117<sup>th</sup> Congress).

<sup>12</sup> *Section-by-Section*.

<sup>13</sup> Clause 4(a)(1), Rule XI.

## Committee Oversight, Activities and Investigations

### Subpoena Authority

#### *Issuance of Subpoenas to Current and Former Executive Officials*

H.Res. 8 added a new subparagraph to clause (2)(m)(3) of Rule XI, which authorizes a committee or a subcommittee, for the purpose of carrying out its functions and duties, to “require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it considers necessary.”<sup>14</sup> The additional subparagraph (D) explicitly states that committees and subcommittees (and committee chairs if authorized under committee rules) have the authority to issue subpoenas to “any person or entity, whether governmental, public, or private, within the United States.”<sup>15</sup>

The specified authority includes, but is not limited to, current and former executive branch officials and White House staff—specifically, any individual who has served or is serving as President or Vice President, as well as their current or former employees.<sup>16</sup> According to the Rules Committee’s *Section-by-Section* analysis, the new subparagraph “is not a change to, but rather a clearer affirmation of, existing authorities.”<sup>17</sup>

#### *Continuing Authority to Issue Subpoenas and Act in Litigation*

H.Res. 8 amended clause 8(c) of Rule II to clarify that, for matters related to litigation, a chair of a committee or a committee (or the Speaker or the House at large) is authorized to issue a subpoena in a succeeding Congress if the individual or entity was authorized do so in the preceding Congress. Prior to amendment, the rule stated that the House, the Speaker, a committee, or the chair of a committee had the authority to “take such steps as may be appropriate” to continue an investigation spanning more than one Congress.

In the 117<sup>th</sup> Congress, the rule’s additional phrase, *including, but not limited to, the issuance of subpoenas*, explicitly states that appropriate steps include the issuance of subpoenas. This change is intended to ensure that committees and their chairs, if previously authorized, have the authority to “immediately reissue subpoenas, prior to the organization of their committees, to ensure litigation can continue uninterrupted.”<sup>18</sup>

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<sup>14</sup> Clause 2(m)(1)(B), Rule XI.

<sup>15</sup> Pursuant to House Rule XI, clause 2(m), House committees and subcommittees have the power to authorize (decide to issue) subpoenas for the purposes of fulfilling their oversight duties. Clause 2(m)(3) of the rule allows committees to delegate this power to the committee chair “under such rules and under such limitations as the committee may prescribe.” Some House committee rules provide that only the committee (by majority vote) may authorize a subpoena, while other committees’ rules extend the power to authorize and issue a subpoena to the chair under some or all circumstances. See CRS Memorandum, *House Committee Rules Regarding the Authorization and Issuance of Subpoenas (116<sup>th</sup> Congress)*, by Jane A. Hudiburg (available to congressional staff upon request to the author).

<sup>16</sup> As adopted by H.Res. 8, clause 2(m)(3)(D) of Rule XI states: “Subpoenas for documents or testimony may be issued to any person or entity, whether governmental, public, or private, within the United States, including, but not limited to, the President, and the Vice President, whether current or former, in a personal or official capacity, as well as the White House, the Office of the President, the Executive Office of the President, and any individual currently or formerly employed in the White House, Office of the President, or Executive Office of the President.”

<sup>17</sup> *Section-by-Section*.

<sup>18</sup> *Section-by-Section*.



## Committee Oversight Plans

As in previous Congresses, clause 2(d)(1) of Rule X requires chairs of each standing committee (excluding the Committees on Appropriations, Ethics, and Rules) to submit oversight plans to the Committees on Oversight and Reform and House Administration not later than March 1 of the first session of a Congress. These documents provide the committees' upcoming plans to review laws, programs, or agencies within the committees' jurisdictions.

H.Res. 8 amended clause 2(d)(2) of Rule X to add a new subparagraph (F) encouraging committees to include in their oversight plans a section that discusses how the committee intends to "address issues of inequities on the basis of race, color, ethnicity, religion, sex, sexual orientation, gender identify, disability, age, or national origin." Committees are to "give priority consideration" to provide such a discussion in their plans.

## Public Availability Requirements

### Committee Votes

H.Res. 8 amended clause 2(e)(1)(B)(i) of Rule XI to strike the phrase *inspection by the public at reasonable times in its offices* as it pertains to public access to committee votes. Instead, record votes (except votes taken in executive session of the Committee on Ethics) only need to be made "publicly available in electronic form." Thus, in order to fulfill the requirement, it is sufficient for committees to post the results of record votes on House-sponsored websites. According to the *Section-by-Section* document, this rules change "modernizes the requirement for committees to make the results of record votes" available to the public.

H.Res. 8 also specifies that record votes taken in the Committee on Ethics' executive session "may not be made publicly available without an affirmative vote of a majority of the members of the committee." The rule previously referenced making such recorded votes "available for public inspection." As in previous Congresses, clause 2(e) requires that, with the Ethics Committee exception, committees are required to make publicly available any record vote "within 48 hours of such record vote."<sup>19</sup>

### Committee Amendments

Clause 2(e) of Rule XI mandates that "each committee shall keep a complete record of all committee actions." In prior Congresses, the "record" was to include the text of any committee-approved amendments. As amended, clause 2(e)(6) requires that committee chairs make publicly available the text of all amendments, including failed or withdrawn amendments, offered in committee markups.<sup>20</sup>

Previously, the provision required chairs to post the text of agreed-to amendments within 24 hours after their adoption. The amended rule maintains the 24-hour time period for adopted amendments and adds a new requirement that the text of any other offered amendment must be made publicly available in electronic form not later than 48 hours after its "disposition or withdrawal."

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<sup>19</sup> Notwithstanding clause 2(e)(1)(B)(i) of Rule XI, the Committee on Ethics is not required to make record votes taken in executive session publicly available "without an affirmative vote of a majority of the members of the committee." See clause 2(e)(1)(B)(ii) of Rule XI; *House Manual*, 116<sup>th</sup> Congress, §795.

<sup>20</sup> This requirement applies only to amendments offered to pending text in a markup meeting. It not applicable to proposed or pre-submitted amendments that are not formally offered in a markup at the appropriate time.



## Remote Committee Activity

### Remote Meetings

By separate order, Section 3 of H.Res. 8 continues, with slight modifications, the remote committee procedures provided for in H.Res. 965 (116<sup>th</sup> Congress). H.Res. 965 enabled all committees to conduct official committee proceedings remotely during pandemic-related “covered periods.” With the exception of those meetings held by the Committee on Ethics, these remote committee meetings were required to remain open to the public. Remote meetings were also to be conducted in accordance with additional regulations submitted for printing in the *Congressional Record* by the chair of the Committee on Rules.<sup>21</sup>

H.Res. 8 removes the H.Res. 965 requirement that a committee, prior to holding its first virtual meeting, notify the Speaker that the committee had met the requirements in the supplemental regulations and was “prepared to conduct a remote meeting and permit remote participation.”<sup>22</sup> As in the 116<sup>th</sup> Congress, during covered periods, committees may conduct entirely virtual or hybrid meetings, Members participating remotely may vote and count toward quorum requirements (provided that they remain onscreen), and witnesses may testify and be sworn in remotely.<sup>23</sup>

### Electronic Filing of Reports and Electronic Signatures

H.Res. 8 amended clause 2 of Rule XIII to allow committees to deliver their reports to the Clerk in electronic form.<sup>24</sup> In addition, it amended clause 2 of Rule XI to enable committee members to electronically sign any supplemental, minority, additional, or dissenting views associated with committee reports. These amendments codified practices that were temporarily permitted pursuant to H.Res. 965 (116<sup>th</sup> Congress).

Prior to H.Res. 965, committees delivered reports (aside from privileged reports filed from the floor) in paper form to the Clerk for printing and placement on the proper calendar. The adoption of H.Res. 965 enabled committees to submit reports in electronic form, via email attachments, during pandemic “covered” periods.

In the 117<sup>th</sup> Congress, committees may submit reports electronically, and committee members may electronically sign supplemental views, at any time. That is, the covered period designation is not required to enable such electronic submissions.

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<sup>21</sup> H.Res. 965 states, in part: “[A]t any time after the Speaker or the Speaker’s designee is notified by the Sergeant-at-Arms, in consultation with the Attending Physician, that a public health emergency due to a novel coronavirus is in effect, the Speaker or the Speaker’s designee, in consultation with the Minority Leader or the Minority Leader’s designee, may designate a period (hereafter in this resolution referred to as a ‘covered period’).” The House Committee on Rules posts information related to emergency remote proceedings on the web page *Key Documents: Congressional Emergency Remote Proceedings* at <https://rules.house.gov/press-releases/key-documents-congressional-emergency-remote-proceedings>.

<sup>22</sup> H.Res. 965 (116<sup>th</sup> Congress).

<sup>23</sup> U.S. Congress, House Committee on Rules, *Remote Committee Proceedings Regulations Pursuant to House Resolution 8*, 117<sup>th</sup> Cong., 1<sup>st</sup> sess., 2021, <https://rules.house.gov/sites/democrats.rules.house.gov/files/RemoteCommitteeProceedingsRegulations117th.pdf>.

<sup>24</sup> Committee staff may submit reported measures and committee reports in pdf format—and electronic versions of all files used to produce the report and the reported measure—to the Clerk of the House. House staff members may access the Quick Guide to Electronic Filing of Committee Reports at [https://housenet.house.gov/sites/housenet.house.gov/files/documents/quick-guide-electronic-filing-committee-report\\_0.pdf](https://housenet.house.gov/sites/housenet.house.gov/files/documents/quick-guide-electronic-filing-committee-report_0.pdf).

## **Committee on House Administration**

### **Remote Voting by Secure Technology**

By separate order, H.Res. 8 requires the chair of the Committee on House Administration, in consultation with the ranking member, to identify “specific operable and secure technology” that may be used for remote voting in the House. Furthermore, the chair shall identify and submit the technology to the Speaker, and to the chair and ranking member of the Committee on Rules, and “provide certification of such submission to the House.”

This separate order builds on a similar mandate in H.Res. 965 (116<sup>th</sup> Congress), which, among its provisions, authorized remote voting “by proxy” in the House and remote committee proceedings during a pandemic-related “covered period.” (See “Remote Committee Activity” in this report.) Section 5 of H.Res. 965 also required the chair of the Committee on House Administration to “study the feasibility of using technology to conduct remote voting in the House” and to provide certification to the House “upon a determination that operable and secure technology exists.”

The 117<sup>th</sup> Congress separate order requires the House Administration Committee chair to submit specific technology, rather than determine that such operable and secure technology exists (an action that occurred in the 116<sup>th</sup> Congress).<sup>25</sup> Otherwise, the provisions of Section 5 of H.Res. 965 apply in the 117<sup>th</sup> Congress. That is, following the certification of technology, the chair of the Committee on Rules, upon consultation with the ranking member, is to submit regulations for the implementation of remote voting in the House. This submission would enable such voting to occur without any additional House vote once the Speaker notifies the House that the regulations have been submitted.<sup>26</sup>

## **Committee on Armed Services**

### **Clarification of Jurisdiction (Marine Corps and Space Force)**

H.Res. 8 amends clause 1(c) of Rule X to clarify that the Marine Corps and the Space Force are within the jurisdiction of the Committee on Armed Services. In the 117<sup>th</sup> Congress, Rule X specifies that the committee’s jurisdiction is to include Marine Corps and Space Force reservations and establishments (subparagraph 1) and the size and composition of the Marine Corps and Space Force (subparagraph 13).

In the 116<sup>th</sup> Congress, the National Defense Authorization Act (P.L. 116-92) re-designated the Air Force Space Command as the United States Space Force. The Space Force is a military service

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<sup>25</sup> U.S. Congress, Committee on House Administration, Staff Report on Feasibility of Remote Voting in the United States House of Representatives Pursuant to House Resolution 965, Sec. 5, 17, 116<sup>th</sup> Cong., 2<sup>nd</sup> sess., (2020); U.S. Congress, Committee on House Administration, The Report on the Activities of the Committee on House Administration during the 116<sup>th</sup> Congress, 116<sup>th</sup> Cong., 2<sup>nd</sup> sess., 2020, H.Rept. 116-707 (Washington: GPO, 2020), pp. 82-83.

<sup>26</sup> Remote voting “by proxy” authorizes a Member to vote in the House chamber on behalf of another Member. In contrast, remote voting by secure technology would enable a Member to vote off-site without requiring the on-site presence of another Member. According to the House report that accompanied H.Res. 965, the implementation of remote voting technology ensures “that were the pandemic situation to further deteriorate, making even a limited presence of Members in the House Chamber extremely difficult, the House will still be able to vote on critical legislation.” U.S. Congress, House Committee on Rules, *Authorizing Remote Voting by Proxy in the House of Representatives*, 116<sup>th</sup> Cong., 2<sup>nd</sup> sess., May 14, 2020, H.Rept. 116-420 (Washington: GPO, 2020), p. 22.

within the Department of the Air Force, while the Marine Corps operates as part of the Department of the Navy. According to the Rules Committee's *Section-by-Section* analysis, the changes in the text of Rule X do not substantively alter the Committee on Armed Services' jurisdiction and are "clarifying and technical in nature."<sup>27</sup>

## Committee on Ethics

### Service on Committee

The House rules package for the 117<sup>th</sup> Congress expanded the number of Congresses that a chair or ranking member may serve on the Committee of Ethics. Pursuant to Rule X, clause 5(a)(3)(B), Members could serve on the committee for no more than three Congresses within a period of five successive Congresses. However, clause 5(a)(3)(C) previously allowed Members to serve for a fourth Congress if they did so as chair or ranking member. H.Res. 8 amended subparagraph (C) to allow Members to serve on the committee during a fourth *or* fifth Congress only as either the chair or ranking member.

The Committee of Ethics is bipartisan in design, composed of five members of the majority party and five members of the minority party.<sup>28</sup> In the 117<sup>th</sup> Congress, the rules change continues to limit non-leadership committee members to three terms, "disregarding for this purpose any service for less than a full session in a Congress."<sup>29</sup>

### Ethics Investigations

Pursuant to H.Res. 8, clause 3 of Rule XI is amended so that the phrase *Delegate, Resident Commissioner* is inserted after *Member* in multiple places to clarify that Delegates and the Resident Commissioner of Puerto Rico are subject to or may participate in investigations conducted by the Committee on Ethics. The change in text affects subparagraphs (b), (k), (n), and (r), which concern investigations into the "official conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House," and subparagraph (m), providing for investigative subcommittees, which "shall be composed of four Members, Delegates, or the Resident Commissioner (with equal representation from the majority and minority parties)."

## Select Committee Establishment and Reauthorization

H.Res. 8 established the Select Committee on Economic Disparity and Fairness in Growth; reauthorized the Select Subcommittee on the Coronavirus Crisis, which was first established in April 2020; and reauthorized the Select Committee on the Climate Crisis and Select Committee

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<sup>27</sup> *Section-by-Section*.

<sup>28</sup> Clause 5(3)(A) of Rule X; *House Manual*, 116<sup>th</sup> Congress, §759. For more information about the Committee on Ethics, see CRS Report 98-15, *House Committee on Ethics: A Brief History of Its Evolution and Jurisdiction*, by Jacob R. Straus.

<sup>29</sup> Clause 5(3)(B) of Rule X; *House Manual*, 116<sup>th</sup> Congress, §759.

on the Modernization of Congress, which were first established at the start of the 116<sup>th</sup> Congress.<sup>30</sup>

## **Select Committee on Economic Disparity and Fairness in Growth: Establishment**

H.Res. 8 established a Select Committee on Economic Disparity and Fairness in Growth. The select committee’s “sole authority” is to “investigate, study, make findings, and develop recommendations on policies, strategies, and innovations to make our economy work for everyone.”

The select committee does not have the legislative authority to report bills or resolutions or the legal authority to issue subpoenas or take depositions. However, it can submit policy, subpoena, and deposition recommendations to the relevant standing committees and hold public hearings in support of its investigations. It is to otherwise function under the rules governing standing committees, except that it is not required to submit an oversight plan pursuant to clause 2(d) of Rule X, and membership to the select committee does not count against the limits on the number of standing committees a Member may serve on pursuant to clause 5(b)(2) of Rule X.

The select committee is composed of 15 Members, Delegates, or the Resident Commissioner. The Speaker is to appoint the committee’s members and designate a chair from the membership. Six members are to be selected at the recommendation of the minority leader.

H.Res. 8 requires the select committee to coordinate with and advise the relevant standing committees “with respect to policy related to economic fairness, access to education, and workforce development.” From “time to time” during the Congress, the select committee may report its findings and policy proposals to the House and to the standing committees with jurisdiction. All policy recommendations are due to the relevant committees by December 31, 2021, and any reports to the House are to be submitted by December 31, 2022. The recommendations and House reports shall be made publicly available no later than 30 calendar days following their respective deadlines for submission.

## **Select Subcommittee on the Coronavirus Crisis: Reauthorization**

The rules of the 117<sup>th</sup> Congress re-established the Select Subcommittee on the Coronavirus Crisis, which was initially authorized in the 116<sup>th</sup> Congress, pursuant to H.Res. 935, as a select investigative subcommittee of the Committee on Oversight and Reform. The select subcommittee’s authority includes overseeing federal efforts to mitigate the pandemic’s public health and economic crises, investigating reports of fraud or “other abusive practices related to the coronavirus crisis,” and studying the impact of the virus on the economy and on “different communities and populations.”<sup>31</sup>

H.Res. 8 states that the first seven sections of H.Res. 935 (116<sup>th</sup> Congress) shall apply in the 117<sup>th</sup> Congress “in the same manner” as in the 116<sup>th</sup> Congress. Sections 1-3 of the earlier resolution established the subcommittee and its mandate to “conduct a full and complete investigation and

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<sup>30</sup> For more information about the reauthorized select committees, see CRS Report R45724, *House Select Committee on the Modernization of Congress: Structure and Procedures*, by Ida A. Brudnick and Mark J. Oleszek; and CRS Report R45731, *House Rules Changes Affecting Committee Procedure in the 116th Congress (2019-2020)*, by Jane A. Hudiburg.

<sup>31</sup> H.Res. 935 (116<sup>th</sup> Congress).

study and issue a final report to the House of its findings” regarding the “efficiency, effectiveness, equity, and transparency of the use of taxpayer funds and relief programs to address the coronavirus crisis.”<sup>32</sup>

Sections 4, 5, and 7 concern the select subcommittee’s and the chair’s investigatory authority. Section 6 provides that membership to the select committee does not count against the limits on the number of standing committees a Member may serve on pursuant to clause 5(b)(2) of Rule X. The remaining three sections in H.Res. 935, which are not applicable in the 117<sup>th</sup> Congress, provided for the subcommittee’s funding and termination.

## Select Committee on the Climate Crisis: Reauthorization

By separate order, H.Res. 8 reauthorizes the Select Committee on the Climate Crisis with four changes made to the separate order that initially established the select committee in the 116<sup>th</sup> Congress. These changes are: (1) revisions related to the committee’s investigatory role, (2) a new section clarifying the select committee’s coordination with relevant standing committees, (3) a new section concerning records obtained at the recommendation of the select committee, and (4) revised dates for the select committee to submit policy recommendations and reports to the House. According to the Rules Committee majority, these changes are “modest modifications” to the select committee’s authority.<sup>33</sup> Otherwise, the separate order contained in the 116<sup>th</sup> Congress’s rules package (H.Res. 6) applies “in the same manner” to the 117<sup>th</sup> Congress.<sup>34</sup>

The H.Res. 8 separate order clarifies that the select committee’s investigatory jurisdiction includes “environmental justice.”<sup>35</sup> In both Congresses, the committee was to “investigate, study, make findings, and develop recommendations on policies, strategies, and innovations to achieve substantial and permanent reductions in pollution and other activities that contribute to the climate crisis to be good stewards of the planet for future generations.” The 117<sup>th</sup> Congress separate order adds the phrase *and advance environmental justice* to that jurisdiction, while it strikes a subsequent sentence stating that the select committee may “hold public hearings in connection with any aspect of its investigatory functions.” Notwithstanding the modified text, the select committee may continue to hold public hearings in support of its investigations.<sup>36</sup>

In addition, the 117<sup>th</sup> Congress separate order makes explicit the requirement that the select committee is to “coordinate and advise standing committees with relevant jurisdiction with respect to such policies, strategies, and innovations.”<sup>37</sup> As part of this coordination, “any records obtained by a standing committee pursuant to a subpoena or deposition recommended by the Select Committee” may be transferred to the select committee. By December 31, 2021, the select

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<sup>32</sup> Pursuant to Section 2 of H.Res. 935 (116<sup>th</sup> Congress), the select subcommittee shall be composed of 12 Members, Delegates, or the Resident Commissioner. The Speaker is to appoint the subcommittee’s members and designate a chair from the membership. Five members are to be selected at the recommendation of the minority leader. These members are not required to be members of the Committee on Oversight and Reform.

<sup>33</sup> *Section-by-Section*.

<sup>34</sup> H.Res. 8 (117<sup>th</sup> Congress).

<sup>35</sup> As in the 116<sup>th</sup> Congress, the select committee does not have legislative jurisdiction in the 117<sup>th</sup> Congress, meaning that it cannot report a bill or resolution.

<sup>36</sup> As of May 10, 2021, the select committee had held two hearings in the 117<sup>th</sup> Congress. See <https://climatecrisis.house.gov/committee-activity/hearings>.

<sup>37</sup> The 116<sup>th</sup> Congress separate order in H.Res. 6 implies the coordination requirement in its reporting provision: “The Select Committee may report to the House or any committee of the House from time to time the results of its investigations and studies, together with such detailed findings and policy recommendations as it may deem advisable.” This provision also applies in the 117<sup>th</sup> Congress. See H.Res. 6 (116<sup>th</sup> Congress) and H.Res. 8 (117<sup>th</sup> Congress).

committee is to submit any policy recommendations to the relevant standing committees, and by December 31, 2022, it is to submit its report(s) to the House.

## **Select Committee on the Modernization of Congress: Reauthorization**

By separate order, H.Res. 8 reauthorizes the Select Committee on the Modernization of Congress with two changes to the separate order that first established the select committee in the 116<sup>th</sup> Congress. As in the previous Congress, the select committee does not have legislative authority but is authorized to “investigate, study, make findings, hold public hearings, and develop recommendations on modernizing Congress.”<sup>38</sup>

The 117<sup>th</sup> Congress separate order changes the date for the select committee to make its final report to the House “not later than December 21, 2022.”<sup>39</sup> The separate order also removes the previous termination date of February 1, 2020, without establishing a new one. However, the select committee will terminate at the end of the 117<sup>th</sup> Congress unless the House terminates the select committee earlier or reauthorizes it at the start of the 118<sup>th</sup> Congress.

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<sup>38</sup> H.Res. 6 (116<sup>th</sup> Congress).

<sup>39</sup> The committee was originally set to make its final report at the end of the first session of the 116<sup>th</sup> Congress.