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House Committee System: Jurisdiction and Referral Reform Options

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Summary

On January 7, 2003, the House created a Select Committee on Homeland Security with legislative and oversight jurisdiction over the newly created Department of Homeland Security. The select committee is also mandated to study House rules, including Rule X, as they apply to homeland security matters, and to recommend changes to the House Rules Committee no later than September 30, 2004. This report briefly addresses jurisdiction and referral reform options. It will be updated if events warrant.

Overview

The committee system is central to the legislative process. Committees are the initial point of referral for measures introduced and often the place where the fate of a measure is determined, in part because most measures must be reported by committee before they can be considered by the House. Notwithstanding changes which have occurred over time¹, the Select Committee on Homeland Security has been charged with conducting a review of House rules, including Rule X, as they apply to homeland security matters, and recommending changes to the Rules Committee no later than September 30, 2004.²

No characteristic of the committee system is more critical than its jurisdictional structure. Critics charge that despite changes in recent years, Congress has not sufficiently shifted the system's focus toward newly emerged policy areas. Questions have been raised concerning duplication, overlap, or neglect of some issues, and a perceived impediment to policymaking.

¹ For a history of House reforms since 1946, see CRS Report RL31835, *Reorganization of the House of Representatives: Recent Reform Efforts*, by (name redacted), (name redacted), and (name redacted).

² For additional information, see CRS Report RS21360, *Department of Homeland Security: Options for House and Senate Committee Organization*, by (name redacted) and Paul Rundquist.

Related to the issue of jurisdiction is the committee referral process. Authority is vested in the Speaker to make bill referrals and to identify a primary committee if a measure is to be referred to more than one panel. In the 108th Congress, pursuant to House Rule XII, clause 2, the Speaker was given authority to refer a measure without designating a primary committee under “extraordinary circumstances.” The Speaker also has the authority to impose time limits on committees receiving a referral, whether a primary committee is designated or not.

Advocates of rules changes believe it necessary to alter committee jurisdictions to facilitate comprehensive policymaking, to reflect contemporary policy issues in jurisdictional language, and to simplify the referral process. Alternatively, others believe it unnecessary or unfeasible to change current jurisdictions because policy issues cannot be neatly compartmentalized.

Arguments in favor of altering committee jurisdictions include the following:

- Jurisdictions may be outdated, fragmented, and overlapping.
- Contemporary problems and issues, such as homeland security, are not reflected in jurisdictional language, and are divided among too many panels to allow comprehensive policymaking.
- Congress’s need to rely on select committees offers evidence that current jurisdictional arrangements are inadequate.

Arguments against altering committee jurisdictions include the following:

- Overlap of jurisdictions is impossible to eliminate, in part because contemporary policy issues are broad, have diverse dimensions, and cannot be neatly defined.
- Policymaking problems stem largely from difficult, interwoven national problems and not from jurisdictional arrangements for addressing them.
- Any reduction in panels along with jurisdictional change could deprive Members and interest groups of multiple avenues for influencing decision making.
- Although the House has used select committees to handle recent homeland security issues, the House now generally relies less on select committees than it did during the past several decades.

Proposals relating to jurisdiction and referral changes can be seen as sweeping, incremental, or minimal. Some have suggested a system of numerous committees with relatively narrow jurisdictions, while others have advocated having a few committees with relatively broad jurisdiction. Proposals to make House and Senate committee systems parallel, or to correlate them with federal agency responsibilities or budget functions, have also been put forward. Some have suggested matching the jurisdictions of authorizing panels with those of the Appropriations Committee’s subcommittees. Some have suggested merely clarifying Rule X by making the terms more explicit or by incorporating new concepts not now in the rule. Some have also called for codifying in the rules informal precedents and agreements between committees. Still others have recommended making Rule X reflect programmatic responsibilities by including specific references to particular laws or programs rather than the terminology currently used. Some are merely seeking a more definitive listing of subject responsibilities among committees.

These options are illustrative, not the only ones available, and they are not mutually exclusive. Underlying all proffered options, however, is the assumption that institutional change is indeed needed, that strict adherence to existing rules and procedures is insufficient and unrealistic. Not all Members agree.

Some House Members and outside observers believe that structural change is not necessary. For them, the absence of a policy consensus on major issues among House Members slows legislative action more than does any kind of organizational inadequacy.

Finally, possible jurisdictional realignment and the current House bill referral process are integrally related. Some Members contend that, had the 1974 rules change permitting multiple referrals been accompanied by a proposed comprehensive realignment of committee jurisdictions, current referral problems and calls for jurisdictional change might have been lessened. Others note, however, that the House has undertaken major jurisdictional and structural changes in its committee system, most recently in 1995; they believe action now is less urgent.

Options for Realigning Committee Jurisdictions

The following section briefly notes various options that have been suggested, currently or in the recent past, for altering House committee jurisdictions. The primary arguments for and against each approach are noted. The list below is illustrative of the range of ideas and approaches under consideration. Additionally, some advocates of jurisdictional change might want two or more approaches combined, depending upon the policy issues to be addressed in a particular reorganization scheme.

Clarify Existing Language Without Shifting Jurisdictions. Clarification could eliminate ambiguous and unclear rule language and replace outdated terms with more modern ones. Current referral practices, precedents, and agreements between committees could be written into the rules.

On the other hand, clarification would not necessarily reflect all current issues in rule language and reduce jurisdictional overlap and competition. Neater jurisdictions might not get at the heart of the problem, and could deny Members the opportunity to explore different approaches to policy problems between committees.

Extensive Jurisdictional Realignment. Changes could eliminate the most glaring policy overlaps and consolidate jurisdiction in a number of key areas, such as homeland security. No committees would be eliminated, and jurisdictions could be equalized.

Changes would not necessarily consolidate all fragmented and overlapping policy areas and could create others. In addition, the greater number of committees affected by jurisdictional realignment, the greater is the likelihood that a coalition of Members who opposed different reform proposals could be assembled to defeat a major reform plan.

Numerous Committees with Narrow Jurisdictions. Narrowly focused panels could create committees better balanced in terms of workload and policy attractiveness, permit more in-depth attention to policy issues, and lessen the chances that issues lose priority on a committee's agenda due to competing demands.

Narrowly focused panels could exacerbate the workload, scheduling, and assignment concerns related to numerous committees. For example, Members might not be willing to serve only on two committees if committees have reduced areas of policy concern.

Few Committees with Broad Jurisdictions. This option would create jurisdictions around broad national problems. Committees would be more equal in breadth, workload, and policy attractiveness. As such, the policymaking process could be streamlined and the number of committee assignments would be reduced. To some degree, rules might also be changed to have a greater number of Members serve only on one committee.

Too few committees with too much jurisdiction might deny issues the attention they deserve. With excessive consolidation of committees, subcommittees might proliferate, further decentralizing policymaking. Subcommittee proliferation has occurred before, for example, after 1946 when the House converted more than 50 committees into 16 more broadly focused committees.

Jurisdictions Based on Budget Functions. Jurisdictions would be defined more in programmatic than topical language. In such a situation, the number of committees would be reduced; workload among committees would be more equal; and the House and Senate would have parallel systems if both chambers adopted such a structure.

Budget terminology was not written to be jurisdictional language and does not reflect contemporary policy issues. If both chambers adopted a budget function-based system, the House and Senate would not have flexibility in devising their own committee system.

Jurisdictions Parallel Between Authorizing and Appropriations Committees. Under this option, the jurisdictional alignment current among the 13 Appropriations subcommittees would serve as the basis for realigning legislative jurisdictions. This plan would have the merit of incorporating a legislative management structure with which most Members are familiar from appropriations bills. Alternatively, attention could be focused on bringing the jurisdictions of the Appropriations subcommittees into closer alignment with the jurisdictions of the authorizing committees.

The alignment among the Appropriations subcommittees might not be defensible for an authorization structure. Most Appropriations subcommittees combine agency or function funding in an effort to balance out inherently unrelated issues. For example, the Departments of State, Commerce, Justice, and Judiciary may be an appropriate mix of agencies and activities for purposes of an appropriations bill. However, combining such diverse subjects into one authorizing committee might make comprehensive legislative and oversight initiatives difficult. Similarly, some might question retaining “independent agencies” in a committee responsible for HUD; it could be argued that independent agencies more appropriately should be transferred to other relevant legislative committees. This approach could be seen as a radical departure from the current committee system, because only the Agriculture, Armed Services, and (to some degree) International Relations Committees would remain in something approaching their current forms. Finally, this option would bring a major reduction in the number of House committees, forcing many Members to alter the policy areas with which they are most directly concerned.

Jurisdictions Parallel Between House and Senate. Parallel systems could facilitate inter-chamber coordination at all stages of policymaking and might help during the conference stage of the process.

The size of the House compared to the Senate, and the House's greater reliance on its committees, might necessitate a more extensive House realignment if the House adapted its organization to the Senate's. However, the Senate has not acted lately on joint or parallel efforts (for example, the House proposal, H.Con.Res. 190, to study the need for joint rules and procedures).

Jurisdictions to Correspond with Executive Branch Structure. This approach might improve inter-branch relations, facilitate comprehensive oversight of the executive branch, reduce duplicative appearances by executive branch witnesses, and enhance public understanding of the policy process.

Matching committees with executive entities might be problematic, especially in determining which entities would be reflected in the committee structure. For example, independent agencies, government corporations, and other structures do not generally fit within the purview of Cabinet departments. The executive branch is not necessarily optimally organized, and whatever organizational problems effect the executive branch could be transferred to a committee system that mirrors it. Finally, if an executive department and a parallel committee become too closely connected, energetic oversight might be inhibited.

Minimal Jurisdictional Realignment. Instead of a more comprehensive change in House committee jurisdictions and structures, a more narrowly focused change could be undertaken. For example, a new standing Committee on Homeland Security could be created with some or all jurisdiction relating to that topic moved from the House committees that currently hold that jurisdiction to the new panel. These jurisdictional changes might also accompany a selected group of additional changes. For example, a committee or group of committees having relatively narrow policy jurisdictions or small workloads could be consolidated into larger relevant panels. The end result might be the creation of a new homeland security committee as part of an overall reduction in the number of House committees.

Small jurisdiction realignments are nearly as contentious as proposals for a comprehensive realignment. Although only one or a few subjects are involved in the realignment, the policy interests of many House committees could be affected by the proposal. This is especially true in the area of homeland security where many committees have, or claim to have, a legitimate concern for parts of homeland security legislation. Even if the jurisdictional problems relating to homeland security were solved, a number of other fragmented policy areas among House committees might be left unaddressed.

Declarations of Jurisdictional Primacy. House committee jurisdictions could be revised to grant a committee principal or primary policy responsibility for a subject, without necessarily removing related policy areas from the jurisdiction of other committees. For example, in 1980, the House renamed the Interstate and Foreign Commerce Committee the Committee on Energy and Commerce and assigned to it new responsibility for measures dealing with "national energy policy generally." However, the House left largely untouched the major energy policy jurisdictions assigned to the then

Interior and Insular Affairs Committee (now called the Committee on Resources) and the Committee on Science and Technology (now called the Committee on Science). Written agreements among the three committees delineated the jurisdictional boundaries among them. With regard to homeland security jurisdiction (or other complex contemporary policy issues), a similar designation could be made, setting aside the question of a more comprehensive restructuring.

Opponents of this solution suggest that the 1980 reform was largely symbolic and cosmetic. On contentious issues of energy policy, the three committees often pursued different priorities, arguably detracting from House efforts to enact comprehensive energy legislation. However, supporters of the “1980 type changes” claim that enactment of comprehensive energy legislation would have been extraordinarily difficult regardless of the jurisdictional arrangements among House committees. The Senate had, by then, largely unified its energy jurisdiction in one committee and was not significantly more productive in moving energy policy questions than was the House.

Arguments Against Committee System Change

The options discussed above respond to an interest in the House membership that favors restructuring of the House committee process. This belief may be limited in that, traditionally, Members and outside observers support the concept of reorganization in the abstract. Support lessens markedly when concrete proposals are offered and the benefits and disadvantages of a specific reform can be evaluated. There may be some benefit in allowing more time to pass before the House decides on additional committee reforms. Its system has been revised substantially in recent years: the abolition of long-time select committees in 1993, the abolition of three standing committees and related jurisdictional realignment in 1995, the recodification of House rules in 1997, the realignment of commerce and banking jurisdiction in 2001, and the ad hoc arrangements for handling homeland security in 2002 and 2003.

Others may claim that the House and its Speaker now possess sufficient authority to handle problems in the committee system, without resorting to a major change in the rules. The Speaker’s flexible authority in making bill referrals can force legislative action. The ability of the House to establish ad hoc committees has once again been used with regard to homeland security. Use of select committees could be continued until the House is more sure about the long-term direction homeland security legislation will take. Even more informal processes, such as leadership task forces, might permit the development of comprehensive policy solutions, regardless of any inadequacies in the House’s committee structure.

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