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House Committees: A Framework for Considering Jurisdictional Realignment

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name redacted
Senior Specialist in American National Government
Government and Finance Division

House Committees: A Framework for Considering Jurisdictional Realignment

Summary

The House has chosen to handle committee jurisdiction in a number of ways. It has chosen to concentrate jurisdiction over an issue in new, existing, and temporary committees. It has chosen to keep jurisdiction over components of an issue distributed among several committees. And, it has chosen to vest in one committee jurisdiction over a narrow subject matter that could just as readily have been considered a component of subject matter within another committee's jurisdiction. Rules relating to referral and the Speaker's referral authority have also been changed to deal with jurisdictional issues. The House's most recent decision to create a standing Committee on Homeland Security reflected the several values that can bear on jurisdictional alignment (H.Res. 5, 109th Congress, and an accompanying legislative history of House Rule X changes contained in the resolution).

While the House and Senate consolidated and reduced the number of committees in the Legislative Reorganization Act of 1946, and for the first time vested each committee with specific jurisdiction, the House did not adopt wide-ranging committee reorganizations in 1974 or 1994. Rather, the House on a number of occasions since 1946 has chosen incremental change in committee jurisdictional realignment.

The House is expected to study its committee organization during the 109th Congress.

Related CRS reports are as follows:

- CRS Report RL32711, *Homeland Security: Compendium of Recommendations Relevant to House Committee Organization and Analysis of Considerations for the House*, by (name redacted);
- CRS Report RS21901, *House Select Committee on Homeland Security: Possible Questions Raised If the Panel Were to Be Reconstituted as a Standing Committee*, by (name redacted);
- CRS Report RL31835, *Reorganization of the House of Representatives: Modern Reform Efforts*, by (name redacted), (name redacted), and (name redacted);
and
- CRS Report RL31572, *Appropriations Subcommittee Structure: History of Changes, 1920-2005*, by (name redacted).

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House Committees: A Framework for Considering Jurisdictional Realignment

In analyzing the organization of legislative committees, congressional scholars have suggested three potential models for committee systems. The first model, distributional, explains the relationship between the creation of committees and the opportunity for Members to choose committee assignments that are most relevant to their reelection. The second model, informational, explains a legislature's need for specialization, expertise, and knowledge of the executive branch, and the opportunity for Members to choose committee assignments that bring differing perspectives to committees. The third model, party, explains the relationship between party priorities and committee members' support of those priorities.¹

Each possible scheme for organizing congressional committees emphasizes a different set of values. The House, beginning with the Legislative Reorganization Act of 1946,² has chosen to handle committee jurisdiction in a number of ways. The 1946 act itself consolidated and reduced the number of committees in both the House and Senate, and for the first time vested each with specific jurisdiction. While the House has made many incremental changes to committee jurisdictions since 1946, its attempts at wide-ranging committee reorganization in 1974 and 1994 were unsuccessful.³

The House most recently considered the organization of its committees to handle the set of issues related to the policy area of homeland security. In a report released July 22, 2004, the 9/11 Commission emphasized "unity of effort" in its proposals for organization of the executive branch and for committee organization in Congress, related to intelligence and homeland security.⁴ The commission stated: "Unity of effort in executive management can be lost if it is fractured by divided congressional oversight."⁵ Regarding the commission's specific recommendation of

¹ (name redacted) and Roger H. Davidson, *Congress and Its Members*, 9th ed. (Washington: Congressional Quarterly Inc., 2004), pp. 194-195.

² 60 Stat. 812.

³ For a detailed history of House efforts since 1946, see CRS Report RL31835, *Reorganization of the House of Representatives: Modern Reform Efforts*, by (name redacted), (name redacted), and (name redacted).

⁴ National Commission on Terrorist Attacks Upon the United States, *The 9/11 Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (Washington: GPO, July 22, 2004), pp. 399 et seq. (Available online at [<http://www.gpoaccess.gov/911>], visited Feb. 11, 2005.)

⁵ *Ibid.*, p. 420.

a single authorizing committee in each house for homeland security, the commission explained its recommendation:

Through not more than one authorizing committee and one appropriating subcommittee in each house, Congress should be able to ask the secretary of homeland security whether he or she has the resources to provide reasonable security against major terrorist acts within the United States and to hold the secretary accountable for the department's performance.⁶

The House studied committee organization related to homeland security policy area in the 108th Congress and created a standing Committee on Homeland Security in the 109th Congress.⁷

The commission spoke for efficiency and accountability in its recommendation. The House in its choices over committee organization has demonstrated an interest in a wider range of values, including in choosing the jurisdiction it vested in the new Homeland Security Committee and the jurisdiction over homeland-security-related issues it retained in existing committees.

The House is expected to further study its committee organization during the 109th Congress.⁸

Jurisdictional Approaches

House Rule X, clause 1 contains a jurisdictional statement for each standing committee. Other clauses in this rule set out additional powers or duties of standing committees. A separate clause governs the Permanent Select Committee on Intelligence. These jurisdictional statements employ for the most part subject-matter terminology rather than law, program, or agency names.

Unity of Effort. The jurisdiction vested by Rule X in the Armed Services Committee seems to reflect the kind of "unity of effort" in committee organization that was sought by the 9/11 Commission. The Armed Services Committee has jurisdiction over the "Department of Defense generally, including the Departments of the Army, Navy, and Air Force, generally." Other, more specific subject matter is also listed in the committee's jurisdictional statement.⁹ Creation of this committee occurred by merger of the separate Military Affairs and Naval Affairs Committees, pursuant to the Legislative Reorganization Act of 1946, and preceded by one

⁶ Ibid., p. 421.

⁷ H.Res. 5, §2(a); H.Res. 5 was agreed to in the House Jan. 4, 2005.

⁸ U.S. House, Committee on Rules, *Oversight Plan of the House Committee on Rules for the 109th Congress*. (Available online at [http://www.house.gov/rules/rules_over_109.htm], visited Feb. 22, 2005.) See also Richard E. Cohen, "House Leadership: Rules Panel Eyes More Active Role in Shaping Legislation," *CongressDaily PM*, Jan. 25, 2005; and "Veteran Rules Staffer to Retire Next Month," *CongressDaily AM*, Jan. 26, 2005, p. 12.

⁹ House Rule X, cl. (1)(c).

Congress the creation of the National Military Establishment, later redesignated the Department of Defense.¹⁰

However, due in part to dissatisfaction in the 1970s with the Armed Services Committee's and other committees' conduct of intelligence oversight, the House created what ultimately became the Permanent Select Committee on Intelligence, and gave it jurisdiction over the Central Intelligence Agency, "intelligence and intelligence-related activities of all other departments and agencies of the Government including the tactical intelligence and intelligence-related activities of the Department of Defense," organization or reorganization of an agency as it "relates to a function or activity involving intelligence or intelligence-related activities," and similar subject matter.¹¹ The House also provided the select committee with a rotating membership that was partially drawn from specified committees, in addition to designating the Speaker and minority leader as ex officio members (without voting privileges). The House chose a committee organization that created a separate committee, that was open to more Members, and that allowed Members with differing policy perspectives to have a role in oversight of intelligence.¹²

More recently, since enactment of the Financial Services Modernization Act of 1999, the Gramm-Leach-Bliley Act (GLBA),¹³ the House has concentrated jurisdiction over financial services in the Financial Services Committee. In the 107th Congress, the Banking and Financial Services Committee was renamed the Financial Services Committee, and gained jurisdiction over insurance generally and over securities and exchanges from the Energy and Commerce Committee. The changes embodied in GLBA were propelled in part by changes in the financial services sector that required a new regulatory framework to deal with technology, competition,

¹⁰ Jurisdiction over Defense Department appropriations remains split among several House Appropriations Committee subcommittees. As recently as the 108th Congress, appropriations for the Defense Department were largely split among three appropriations subcommittees: Defense, Energy and Water, and Military Construction. In the 109th Congress, House Appropriations Committee Chairman Lewis announced a reorganization of appropriations subcommittees. Jurisdiction over Defense Department appropriations is still largely split among three subcommittees: Defense, Energy and Water, and Military Quality of Life. See U.S. Congress, House Committee on Appropriations, "Chairman Lewis Major Reorganization of the House Appropriations Committee and Slate of Subcommittee Chairmen," news release, Feb. 9, 2005, at [http://appropriations.house.gov/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=439], visited Feb. 22, 2005.

¹¹ House Rule X, cl. 11(b)(1). The select committee was created pursuant to H.Res. 658, agreed to in the House July 14, 1977.

¹² "U.S. Intelligence Agencies Probed in 1975," *Congressional Quarterly Almanac 1975*, vol. XXXI (Washington: Congressional Quarterly Inc., 1976), pp. 387-408; and "Intelligence Committee," *Congressional Quarterly Almanac 1977*, vol. XXXIII (Washington: Congressional Quarterly Inc., 1977), pp. 376-377.

The creation of the intelligence committee might be an example of the informational model of committee organization. Under such a system, the differing perspectives of the committee's members allow the committee to develop policy recommendations to settle policy disputes.

¹³ P.L. 106-102; 113 Stat. 1338.

globalization, and the breakdown in differences between types of financial institutions.¹⁴ The new jurisdictional arrangement in the House reflected these changes in the financial sector of the economy.

Sometimes jurisdictional overlaps can be worked out with an agreement between the affected committees that recognizes important collateral policy areas. That happened, for example, shortly after the House adopted the changes to the Energy and Commerce and Financial Services Committees' jurisdiction. The changes were facilitated with a memorandum of understanding, which the Speaker inserted in the *Congressional Record*. The memorandum protected the Energy and Commerce Committee's jurisdiction over "regulation and [Securities and Exchange Commission] oversight of multistate public utility holding companies and their subsidiaries, which remain essentially matters of energy policy," while allowing the transfer of jurisdiction over securities and exchanges to the Financial Services Committee. The memorandum also protected the Energy and Commerce Committee's jurisdiction over "consumer affairs and consumer protection," while allowing the transfer of jurisdiction over insurance to the Financial Services Committee. The memorandum also clarified other jurisdictional matters.¹⁵

In the 109th Congress, in creating a standing Committee on Homeland Security, the House accepted the recommendation of the 9/11 Commission, other outside experts, and its own Select Committee on Homeland Security to centralize jurisdiction over homeland security.¹⁶ The House had created the Select Committee on Homeland Security in the 108th Congress with legislative and oversight authority over the Homeland Security Act of 2002,¹⁷ and in addition charged it with studying the "operation and implementation of the rules of the House, including rule X [providing committees' jurisdiction], with respect to the issue of homeland security."¹⁸ On September 30, 2004, the select committee recommended creation of

¹⁴ See CRS Report RL30375, *Major Financial Services Legislation, The Gramm-Leach-Bliley Act (P.L. 106-102): An Overview*, by F. Jean Wells and (name redacted); and CRS Report RL30516, *Mergers and Consolidation Between Banking and Financial Services Firms: Trends and Prospects*, by (name redacted).

¹⁵ Speaker Hastert, "Memorandum of Understanding between Energy and Commerce Committee and Financial Services Committee," remarks in the House, *Congressional Record*, daily edition, vol. 147, Jan. 20, 2001, p. H67. This memorandum was updated in the 109th Congress. See "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 151, Jan. 4, 2005, p. H35.

¹⁶ For a detailed examination of the recommendations and of the events in the 107th and 108th Congresses leading up to the creation in the 109th Congress of the standing Committee on Homeland Security, see CRS Report RL32711, *Homeland Security: Compendium of Recommendations Relevant to House Committee Organization and Analysis of Considerations for the House*, by (name redacted).

¹⁷ P.L. 107-296; 116 Stat. 2135.

¹⁸ H.Res. 5 was agreed to in the House Jan. 7, 2003. The study of House rules was mandated in §4(b)(3).

a standing homeland security committee and the curtailment of homeland-security-related jurisdiction in six existing standing committees.¹⁹

The House, however, did not go as far as its select committee recommended, but retained homeland-security-related jurisdiction in a number of committees. In debate over H.Res. 5 on January 4, 2005, providing for the adoption of the House's rules for the 109th Congress, Rules Committee Chairman Dreier inserted in the *Congressional Record* a "legislative history" concerning the changes in Rule X to explain the jurisdiction of the new committee vis-à-vis the existing standing committees and the Permanent Select Committee on Intelligence.²⁰

The legislative history first explained that the new committee's *legislative jurisdiction* over "overall homeland security policy" was to be interpreted "on a government-wide or multi-agency basis similar to the Committee on Government Reform's jurisdiction over 'overall economy, efficiency, and management of government operations and activities....'" The legislative history stated further: "Surgical addresses of homeland security policy in sundry areas of jurisdiction occupied by other committees would not be referred to the Committee on Homeland Security on the basis of 'overall' homeland security policy jurisdiction."²¹

Second, the legislative history interpreted the new committee's *legislative jurisdiction* over DHS's "organization and administration" to be "confined to organizational and administrative efforts and would not apply to programmatic efforts within the Department of Homeland Security within the jurisdiction of other committees."²²

Third, the legislative history explained the new committee's homeland security *oversight jurisdiction*. The new committee would have oversight jurisdiction over the "homeland security community of the United States." However, as noted in the legislative history, this jurisdiction would not necessarily circumscribe the oversight jurisdiction of other committees:

Nothing in this clause shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review homeland security activities to the extent that such activity directly affects a matter otherwise within the jurisdiction of that committee.²³

¹⁹ House Select Committee on Homeland Security, *Recommendations of the Select Committee on Homeland Security on Changes to the Rules of the House of Representatives with Respect to Homeland Security Issues*, 108th Cong., 2nd sess., Sep. 30, 2004. (Available online at [http://hsc.house.gov/files/mini_report_sigs.pdf], visited Feb. 11, 2005.)

²⁰ "Legislative History to Accompany Changes to Rule X," *Congressional Record*, daily edition, vol. 151, Jan. 4, 2005, pp. H25-H26.

²¹ *Ibid.*, p. H25.

²² *Ibid.*, p. H25.

²³ *Ibid.*, p. H25.

Fourth, the legislative history interpreted the “individual committee concerns” between the new committee on the one hand and nine standing committees and the Intelligence Committee on the other. This section of the legislative history detailed jurisdictional relationships covering a number of specific policy and programmatic areas. In addition, in further explanation of the relationship between the new committee and the Ways and Means Committee, the legislative history contained a copy of the “Delegation from the Secretary of the Treasury to the Secretary of Homeland Security of general authority over Customs revenue functions vested in the Secretary of the Treasury as set forth in the Homeland Security Act of 2002.”²⁴

In addition, in the Speaker’s announcements on policies in the 109th Congress, the Speaker stated that “referrals of measures to the Select Committee on Homeland Security of the 108th Congress will not constitute precedent for referrals to the new [standing Committee on Homeland Security].”²⁵

In remarks to the House, Chairman Dreier commented on the jurisdictional arrangements over homeland security affecting the House’s standing committees:

... This change in House rule X, which governs the committees and their legislative jurisdictions, is a delicately crafted architecture. It creates a primary committee while recognizing the other legitimate oversight roles of existing committees. We envision a system of purposeful redundancy. By that, we mean more than one level of oversight and an atmosphere in which the competition of ideas is encouraged.

With this jurisdiction and the legislative history that I [have placed] in the *Record*, the Department of Homeland Security will have more certainty as to which committee has the primary responsibility for homeland security. At the same time, the American people will live with the assurance that we are working to prevent anything from falling through the cracks.²⁶

The Committee on Homeland Security was the first standing committee of the House to be created since the Committee on the Budget in 1974, and the first permanent committee to be created since the Permanent Select Committee on Intelligence in 1977.

Differing Policy Perspectives. An example of the House choosing openness and differing policy perspectives over jurisdictional clarity was its abolition of the Joint Committee on Atomic Energy (JCAE). The joint committee, created in law in the Atomic Energy Act of 1946,²⁷ presided over the development of nuclear weaponry and the commercialization of nuclear energy. By the 1970s, public health and environmental concerns were part of the policy debate over nuclear energy’s

²⁴ *Ibid.*, pp. H25-H26.

²⁵ “Announcement by the Speaker Pro Tempore,” *Congressional Record*, daily edition, vol. 151, Jan. 4, 2005, p. H35.

²⁶ Rep. David Dreier, remarks in the House, *Congressional Record*, daily edition, vol. 151, Jan. 4, 2005, p. H14.

²⁷ 60 Stat. 755.

future, and the joint committee was criticized for its closeness to the nuclear power industry. The jurisdiction and influence of the joint committee eroded, until the House abolished it in 1977, dispersing its jurisdiction to several committees.²⁸

Issues can often be looked at from more than one jurisdictional perspective, and the House has sometimes chosen to grant jurisdiction over an issue to a committee with a specific rather than a general interest. For example, the Education and the Workforce Committee has jurisdiction over “education or labor generally,”²⁹ but jurisdiction over the education of veterans is vested in the Veterans’ Affairs Committee, over mining schools in the Resources Committee, over international education in the International Relations Committee, and over agricultural colleges in the Agriculture Committee.³⁰ Jurisdiction over the federal civil service is vested in the Government Reform Committee, and over transportation labor in the Transportation and Infrastructure Committee.³¹ Although the Government Reform Committee has jurisdiction over the federal civil service, the Armed Services Committee has jurisdiction over “pay, promotion, retirement, and other benefits and privileges of members of the armed forces.”³²

In a similar vein, the House in some instances has not chosen to consolidate arguably related issues under the jurisdiction of one or even two committees. For example, while the International Relations Committee holds jurisdiction over “relations of the United States with foreign nations generally,” the Ways and Means Committee has jurisdiction over the international relations issue of trade and the Financial Services Committee over the issue of international financial and monetary organizations.³³ Programs administered by the Environmental Protection Agency are principally within the jurisdiction of the Agriculture, Energy and Commerce, Resources, Science, Transportation and Infrastructure, and Ways and Means Committees,³⁴ in addition to the agency’s discretionary spending being within the jurisdiction of the Appropriations Committee and its personnel and procurement being covered by laws within the jurisdiction of the Government Reform Committee,

²⁸ See CRS Report RL32538, *9/11 Commission Recommendations: Joint Committee on Atomic Energy — A Model for Congressional Oversight?*, by (name redacted); and “Atomic Energy Committee,” *Congressional Quarterly Almanac 1977*, vol. XXXIII (Washington: Congressional Quarterly Inc., 1977), pp. 660-661.

The JCAE case might be an example of both the distributional and informational models of committee organization and what can happen. Under a distributional system, self-selection leads to committees that are homogeneous compared to the larger, more heterogeneous parent chamber. The chamber majority might reject or amend a committee’s policy recommendations, or it might ultimately disband the committee.

²⁹ House Rule X, cl. 1(e)(6).

³⁰ House Rule X, cl. 1(s)(3), cl. 1(m)(14), cl. 1(k)(8), and cl. 1(a)(4), respectively.

³¹ House Rule X, cl. 1(h)(1) and cl. 1(r)(20), respectively.

³² House Rule X, cl. 1(c)(10).

³³ House Rule X, cl. 1(k)(1), cl. 1(t)(2), and cl. 1(g)(6), respectively.

³⁴ House Rule X, cl. 1(a), cl. 1(f), cl. 1(m), cl. 1(o), cl. 1(r), and cl. 1(t), respectively.

recognizing the different expertise and competing interests at stake in environmental regulation.

Temporary Committees and Permanent Realignment

Yet other considerations have led to different responses by the House in creating, dissolving, and realigning committees. These responses have been tailored to particular legislative situations or have resolved more long-standing concerns.

Temporary Committees. When jurisdiction over an important issue has spanned the jurisdictions of several or many committees, the House has sometimes created temporary committees, with temporary, specific jurisdiction, to handle a specific piece of legislation. One example of this kind of committee, where the legislation reported became law, was the Select Committee on the Outer Continental Shelf, which was created to write a new offshore leasing law.³⁵ The committee's work resulted in the Outer Continental Shelf Lands Act Amendments of 1978.³⁶

In the 107th Congress, the President's proposal to create the Department of Homeland Security was referred "in addition" to a number of standing committees with jurisdiction, with primary referral to the Select Committee on Homeland Security, which the House created to "develop recommendations and report to the House on such matters that relate to the establishment of a department of homeland security as may be referred to it by the Speaker." The Speaker was authorized to set a time limit for each standing committee to "submit its recommendations on the bill only to the select committee."³⁷ The select committee's work resulted in the Homeland Security Act of 2002.³⁸

The House created a new Select Committee on Homeland Security for the duration of the 108th Congress, and vested it with the following jurisdiction:

(1) LEGISLATIVE JURISDICTION — The select committee may develop recommendations and report to the House by bill or otherwise on such matters that relate to the Homeland Security Act of 2002 (Public Law 107-296) as may be referred to it by the Speaker.

(2) OVERSIGHT FUNCTION — The select committee shall review and study on a continuing basis laws, programs, and Government activities relating to homeland security.³⁹

³⁵ Created pursuant to H.Res. 412, agreed to in the House Apr. 22, 1975. The committee's existence was extended in the 95th and 96th Congresses; it was disbanded in 1980.

³⁶ P.L. 95-372; 92 Stat. 629.

³⁷ Created pursuant to H.Res. 449, agreed to in the House June 19, 2002. The Speaker is authorized to appoint members and refer legislation to a "special, ad hoc" committee with the approval of the House, pursuant to House Rule XII, cl. 2(c)(4).

³⁸ P.L. 107-206; 116 Stat. 2135.

³⁹ Section 4(b)(1) and (2) of H.Res. 5, agreed to in the House Jan. 7, 2003. During debate (continued...)

The jurisdiction of the select committee provided the House with a focus for homeland security legislation and oversight, without immediately changing the jurisdictions of the standing committees that held jurisdiction over aspects of homeland security.

As mentioned earlier, the House also assigned the select committee the additional function of assisting the House in determining how it might organize itself vis-à-vis the issue of homeland security in the future.⁴⁰

Realigning Committees. The House on occasion has chosen to reduce the number of its committees by eliminating those perceived to have a narrow or redundant jurisdiction and by transferring that jurisdiction to other committees. For example, with the beginning of the 104th Congress, the House terminated the District of Columbia and Post Office and Civil Service Committees, and added their jurisdiction to that of the Government Reform Committee. It also eliminated the Merchant Marine and Fisheries Committee, and distributed its jurisdiction among the Armed Services, Transportation and Infrastructure, and Resources Committees.⁴¹ Previously, in the 103rd Congress, the House eliminated four select committees (having no legislative jurisdiction): Aging; Children, Youth, and Families; Hunger; and Narcotics Abuse and Control.⁴²

The House has also chosen to redistribute a committee's jurisdiction when it has perceived that the jurisdiction is too broad, that components of the jurisdiction are closely related to the jurisdiction of other committees, or that a redistribution of jurisdiction would better distribute House committees' workload. For example, in adopting rules for the new 104th Congress, the House redistributed some of the jurisdiction of the Energy and Commerce Committee: the Glass-Steagall Act to what is now the Financial Services Committee; inland waterways and railroads to the

³⁹ (...continued)

on the rules changes proposed to the House, Rep. Oberstar, the ranking member of the House Transportation and Infrastructure Committee, observed: "Mr. Speaker, the proposal to create a new Select Committee on Homeland Security interestingly does not make any changes in the legislative jurisdiction of the committees outlined in rule 10 of the rules of the House." He ended his remarks by asking a question of House Rules Chairman Dreier about referral in the 108th Congress of a bill covering subject matter that, in the 107th Congress, had been reported by the Transportation and Infrastructure Committee. Chairman Dreier responded: "Mr. Speaker, let me just say that it is very clear that the Speaker does have authority to refer legislation, and it is his intent to ensure that we maintain the jurisdiction of those committees." Rep. James L. Oberstar and Rep. David Dreier, remarks in the House, *Congressional Record*, daily edition, vol. 149, Jan. 7, 2003, p. H15.

⁴⁰ Section 4(b)(3) of H.Res. 5.

⁴¹ H.Res. 6, agreed to in the House Jan. 5, 1995.

⁴² Permanent authority for the Select Committee on Aging was terminated by H.Res. 5, agreed to in the House Jan. 5, 1993. The temporary authorities for the other three select committees were not renewed.

Transportation and Infrastructure Committee; and the trans-Alaska pipeline to the Resources Committee.⁴³

On the other hand, the Energy and Commerce Committee was the beneficiary of changes to its jurisdiction in 1980 when the House agreed to a resolution based in part on recommendations made by the Patterson Committee. Three years after the creation of the Energy Department, the House redesignated the Interstate and Foreign Commerce Committee as the Energy and Commerce Committee and gave it jurisdiction over national energy policy generally and over many components of energy policy.⁴⁴ In this instance, the House chose to affirm and to a degree expand the jurisdiction of an existing committee.

In creating the Committee on Homeland Security in the 109th Congress, the House granted the committee jurisdiction over homeland security policy, the organization and administration of DHS, and six functional areas of DHS responsibility: “border and port security (except immigration policy and non-border enforcement)”; “customs (except customs revenue)”; “integration, analysis, and dissemination of homeland security information”; “domestic preparedness for and collective response to terrorism”; “research and development”; and “transportation security.” In order to effect the committee’s jurisdiction in these functional areas, the House amended the jurisdiction of the Judiciary Committee with regard to immigration and enforcement, that of the Transportation and Infrastructure Committee with regard to transportation security, and that of the Ways and Means Committee with regard to customs.⁴⁵

⁴³ Section 202 of H.Res. 6, agreed to in the House Jan. 7, 2003. Committees might also reorganize their subcommittees for similar purposes. For example, on Jan. 29, 2003, House Appropriations Committee Chairman Young announced the creation of the Homeland Security Subcommittee to correspond to the new Department of Homeland Security. The jurisdictions of the other subcommittees were realigned in order to retain 13 appropriations subcommittees, including the new subcommittee. See U.S. Congress, House Committee on Appropriations, “Chairman Young Announces Homeland Security Reorganization,” news release, Jan. 29, 2003, at [http://appropriations.house.gov/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=210&Month=1&Year=2003], visited Dec. 21, 2004. On Feb. 9, 2005, the new House Appropriations Committee chairman, Jerry Lewis, announced the committee’s further reorganization, reducing the 13 subcommittees to 10 in number and realigning subcommittee jurisdictions. See U.S. Congress, House Committee on Appropriations, “Chairman Lewis Major Reorganization of the House Appropriations Committee and Slate of Subcommittee Chairmen,” news release, Feb. 9, 2005, at [http://appropriations.house.gov/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=439], visited Feb. 22, 2005.

⁴⁴ H.Res. 549, agreed to in the House Mar. 25, 1980. The House created the Select Committee on Committees by agreeing to H.Res. 118 on Mar. 20, 1979. The select committee took its popular name from its chair, Rep. Jerry Patterson.

⁴⁵ H.Res. 5, agreed to in the House Jan. 4, 2005.

Referral

Jurisdiction and the *referral of legislation* are closely related, and the House has resolved some jurisdictional questions with rules on referral. The cornerstone of the House's referral system is a directive to the Speaker, who refers legislation in the House. The Speaker is to refer legislation so as to —

... ensure to the maximum extent feasible that each committee that has jurisdiction under clause 1 of rule X [the clause and rule spelling out each committee's jurisdiction] over the subject matter of a provision thereof [of a measure to be referred] may consider such provision and report to the House thereon.⁴⁶

Making legislative policy in the House, therefore, often requires the referral of legislation to more than one committee.

Primary Committees. To deal with the situation of several committees having a jurisdictional claim to a measure, the House at the beginning of the 104th Congress directed the Speaker to designate a “primary” committee in referring measures and to designate other committees to receive referral in addition, or sequentially.⁴⁷ A committee receiving the referral sequentially usually does so for the consideration of only those provisions within its jurisdiction.

In the 108th Congress, the Speaker was given discretion *not* to designate a primary committee when he “determines that extraordinary circumstances justify review by more than one committee as though primary.”⁴⁸ The Speaker also has other referral options in order to allow each committee with a jurisdictional claim to have an opportunity to review a piece of legislation, and he may set “appropriate time limitations” on a referral.⁴⁹

So, for example, in referring legislation that ultimately resulted in enactment of the International Religious Freedom Act of 1998,⁵⁰ the Speaker designated the International Relations Committee as the primary committee since the bill dealt primarily with relations between the United States and other nations.

Although, when enacted, the bill would largely add to the foreign-policy work of the State Department, the scope of legislative policy contained in the bill as introduced was broader than the legislative jurisdiction of the International Relations

⁴⁶ House Rule XII, cl. 2(b). See Sec. 101 of H.Res. 988, agreed to in the House Oct. 8, 1974.

⁴⁷ House Rule XII, cl. 2(c)(1). See Sec. 205 of H.Res. 6, agreed to in the House Jan. 4, 1995. Before this change, the House allowed the Speaker to make a joint referral of a measure to two or more committees for concurrent consideration; other forms of referral were also allowed and are generally in effect today. See Sec. 101 of H.Res. 988, agreed to in the House Oct. 8, 1974. Previously, the Speaker referred a measure to just one committee.

⁴⁸ House Rule XII, cl. 2(c)(1). See Sec. 2(i) of H.Res. 5, agreed to in the House Jan. 7, 2003.

⁴⁹ House Rule XII, cl. 2(c).

⁵⁰ H.R. 2431; P.L. 105-292; 112 Stat. 2787.

Committee. The measure also contained trade sanctions and was referred “in addition” to the Ways and Means Committee, which had jurisdiction over trade. The Judiciary Committee had jurisdiction over immigration, so the measure was referred “in addition” to it since the bill contained immigration provisions. The bill contained export controls, thereby triggering the jurisdiction of what is now the Financial Services Committee, to which it was also referred “in addition.” Finally, the measure contained a provision that established a legislative procedure to approve a future international agreement on religious persecution in Sudan; this process was within the jurisdiction of the Rules Committee, to which the measure was referred “in addition.” With regard to the sequential referral, the Speaker set time limits for the committees to act.

Special Jurisdictional Protections. House rules and precedents on referral and related procedures uniquely protect the jurisdictions of the Appropriations and Ways and Means Committees. Appropriations bills are drafted in or referred to the Appropriations Committee, and measures reported from other committees that contain new entitlement authority are referred to the Appropriations Committee.⁵¹ Tax measures are drafted in or referred to the Ways and Means Committee, and a measure that contains a tax provision is referred to the Ways and Means Committee.⁵² In addition, committees other than the Appropriations Committee are proscribed from reporting a measure “carrying an appropriation,” and appropriations amendments to measures reported by a committee other than the Appropriations Committee are not in order. A point of order would lie against either form of violation.⁵³ Likewise, committees other than the Ways and Means Committee are proscribed from reporting a measure “carrying a tax or tariff measure,” and such amendments to measures reported by a committee other than the Ways and Means Committee are not in order. A point of order would lie against either form of violation.⁵⁴

An example of the tax jurisdiction of the Ways and Means Committee was demonstrated by the Transportation Equity Act, H.R. 3550 in the 108th Congress, which would fund highways, highway safety, mass transit, and other transportation programs. Funding for these programs comes from the Highway Trust Fund, which is supported by gasoline and other taxes. While H.R. 3550 was referred to the Transportation and Infrastructure Committee and other committees to handle its provisions, the Ways and Means Committee acted separately on the extension of the Highway Trust Fund and changes to the taxes supporting it.⁵⁵

Oversight Jurisdiction. Finally, in its rules, the House has also distinguished between legislative and oversight jurisdiction. Several committees

⁵¹ House Rule X, cl. 1(b).

⁵² House Rule X., cl. 1(t).

⁵³ House Rule XXI, cl. 4.

⁵⁴ House Rule XXI, cl. 5.

⁵⁵ Isaiah J. Poole, “House Panel Approves Pared-Down Bill for Highways and Transit Projects,” *CQ Weekly*, vol. 62, no. 13, Mar. 27, 2004, pp. 747-748. The House passed H.R. 3550 Apr. 2, 2004.

have oversight jurisdiction that allows them to look at the broader policy area that contains their legislative jurisdiction. The Energy and Commerce Committee, for example, “shall review and study on a continuing basis laws, programs, and Government activities relating to nuclear and other energy and nonmilitary nuclear energy research and development including the disposal of nuclear waste.”⁵⁶ This oversight jurisdiction was added in two stages, first, in relation to nuclear energy, in 1977 when the Joint Committee on Atomic Energy was dissolved, and second, in relation to all energy, in 1980 when the House realigned committee jurisdiction over energy.

Other examples of “special oversight functions” in Rule X include —

- “domestic educational programs and institutions and programs of student assistance within the jurisdiction of other committees,” within the oversight jurisdiction of the Education and the Workforce Committee;⁵⁷
- “operation of Government activities at all levels with a view to determining their economy and efficiency,” within the oversight jurisdiction of the Government Reform Committee;⁵⁸ and
- “customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements,” within the oversight jurisdiction of the International Relations Committee.⁵⁹

In creating the Committee on Homeland Security in the 109th Congress, the House also granted it “special oversight functions,” as follows:

The Committee on Homeland Security shall review and study on a continuing basis all Government activities relating to homeland security, including the interaction of all departments and agencies with the Department Homeland Security.⁶⁰

The House has also created purely oversight committees, with no legislative jurisdiction, when it has wished to supplement the work done in one or more committees, or when it has perceived a lack of coordination or integration of committees’ work in a policy area. Such committees are often directed to report findings to legislative committees. For example, in 1974, the House created a permanent Select Committee on Aging to conduct oversight of problems of and programs for senior citizens. The creation of the committee had been a

⁵⁶ House Rule X, cl. 3(c).

⁵⁷ House Rule X, cl. 3(d).

⁵⁸ House Rule X, cl. 3(e).

⁵⁹ House Rule X, cl. 3(g).

⁶⁰ House Rule X, cl. 3(f).

recommendation extending from the 1971 White House Conference on Aging. The committee was abolished in 1993, as mentioned earlier.⁶¹

More recently, the House created the temporary Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China to *investigate* the transfer of technology and other information and products that contributed to enhancement of China's military capabilities.⁶²

Joint Committees

The House and Senate have periodically created joint committees to study particular matters. Some, such as the Joint Economic Committee, were created permanently in law for a continuing purpose.⁶³ Others were created temporarily by resolution to study and make recommendations on a single matter. For example, the Joint Committee on the Organization of Congress was to study the organization and operation of Congress and recommend improvements “with a view toward strengthening [Congress's] effectiveness....”⁶⁴ Other joint activities have been undertaken, such as at the initiative of House and Senate committees. For example, the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence conducted a “joint inquiry” into the “activities of the U.S. Intelligence Community in connection with the terrorist attacks perpetrated against our nation on September 11, 2001.”⁶⁵

Finally, as mentioned earlier, Congress created the Joint Committee on Atomic Energy in the Atomic Energy Act of 1946, and vested it with exclusive legislative jurisdiction. While there are examples of temporary joint committees with legislative jurisdiction, the JCAE was unique among joint committees in that it was a permanent committee with such jurisdiction. As already mentioned, the House abolished the committee in 1977, dispersing its jurisdiction.⁶⁶

Conclusion

In the years since enactment of the Legislative Reorganization Act of 1946, the House has made many choices on its committee organization, including choosing not

⁶¹ The select committee was created in H.Res. 988, agreed to in the House Oct. 8, 1974. The committee was terminated in H.Res. 5, agreed to in the House Jan. 5, 1993.

⁶² Created pursuant to H.Res. 463, which was agreed to by the House June 18, 1998.

⁶³ The joint committee was created in the Employment Act of 1946 (60 Stat. 23, 25-26).

⁶⁴ H.Con.Res. 192, on which final action occurred in the House Aug. 6, 1992. The committee's authorization ended Dec. 31, 1993.

⁶⁵ U.S. Congress, Senate Select Committee on Intelligence and House Permanent Select Committee on Intelligence, *Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001*, report, 107th Cong., 2nd sess., H.Rept. 107-792 (Washington: GPO, Dec. 2002), p. 1.

⁶⁶ See CRS Report RL32538, *9/11 Commission Recommendations: Joint Committee on Atomic Energy — A Model for Congressional Oversight?*, by (name redacted).

to undertake wide-ranging reorganizations in 1974 and 1994. Most change has been incremental, but the House has made clear decisions on a number of occasions to expand, contract, or reaffirm the jurisdiction of various committees, and to create or terminate committees. Through changes to the referral system, the House has added to its flexibility in resolving jurisdictional questions. The House has also distinguished between legislative and oversight jurisdiction, again adding to its flexibility in resolving jurisdictional questions

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