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Committee Jurisdiction and Referral in the House

March 4, 2020

Congressional Research Service

<https://crsreports.congress.gov>

R46251

Summary

When legislation is introduced in the House or received from the Senate, it is referred to one or more committees primarily on the basis of the jurisdictional statements contained in clause 1 of House Rule X. These statements define the policy subjects on which each standing committee may exercise jurisdiction on behalf of the chamber. The statements themselves tend to address broad policy areas rather than specific departments, agencies, or programs of the federal government. Because committee jurisdiction often is expressed in general policy terms, it is possible for more than one committee to claim jurisdiction over different aspects of a broad subject that may encompass a myriad of specific programs and activities.

When referring a measure to more than one committee (a “multiple referral”), the Speaker is directed by clause 2 of House Rule XII to identify a “primary” committee of referral, which is the panel understood to exercise jurisdiction over the main subject of the measure. Rule XII further provides the Speaker with the authority to refer legislation to more than one committee either at the point of introduction (an “initial additional referral”), or after another committee has reported (a “sequential referral”). The Speaker may also divide a measure into its component parts and refer individual pieces to different House panels (a “split referral”), but split referrals are rare in current practice.

The Speaker is empowered to place time limits on any referral and always does so in the case of a sequential referral. The Speaker also “may make such other [referral] provision as may be considered appropriate.” House rules vest these powers of referral in the Speaker; in practice, the House Parliamentarian makes day-to-day referral decisions acting as the Speaker’s nonpartisan and disinterested agent.

Although clause 1 of Rule X is the main determinant of House committee jurisdiction, other factors may also influence how legislation is referred, including precedents established by past referrals; agreements between committees outlining their jurisdictional boundaries on new, evolving, or contested policy subjects; and statutes that identify how particular kinds of matters will be referred.

The jurisdictions of subcommittees are not explicitly stated in House rules. The jurisdiction of a subcommittee is generally determined by the full committee that created it. If a subcommittee’s jurisdiction is not explicitly defined by its parent committee, measures are generally referred to subcommittee or retained by the full committee at the discretion of its chair.

A distinction can be made between legislative and oversight jurisdiction. Legislative jurisdiction describes the authority of a committee to receive and report measures to the House. Oversight jurisdiction refers to a committee’s ability to review matters within its purview, for instance by conducting hearings and investigations. Legislative jurisdiction is defined in clause 1 of Rule X, while clause 2 of the same rule directs all standing committees to “review and study on a continuing basis the application, administration, execution, and effectiveness of laws and programs addressing subjects within its [legislative] jurisdiction.”

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Jurisdiction of House Committees

When legislation is introduced in the House or received from the Senate, it is referred to one or more committees primarily on the basis of the jurisdictional statements contained in clause 1 of House Rule X.¹ These statements define the policy subjects on which each standing committee may exercise jurisdiction on behalf of the chamber. The statements themselves tend to address broad policy areas and not specific departments, agencies, or programs of the federal government.² Many federal departments and agencies handle a wide variety of policy areas that do not fit neatly within the subject matter jurisdiction of one or another standing committee. Because committee jurisdiction often is expressed in general policy terms, it is possible for more than one committee to claim jurisdiction over different aspects of a broad subject that may encompass a myriad of specific programs and activities. Additional guidance and context to the referral of measures addressing particular policy areas can be found in notes and annotations written by the House Parliamentarian located below the jurisdictional statements of each standing committee in the *House Manual*.³

Take the subject of roads for example. When it comes to the design and planning of road construction or maintenance, the House Transportation and Infrastructure Committee exercises jurisdiction on the basis of its responsibility defined in clause 1(r)(11) of Rule X for the “Construction or maintenance of roads or post roads (other than appropriations therefor).”⁴ However, as suggested by the parenthetical in this jurisdictional statement, the amount of money made available for road construction or maintenance through the annual appropriations process is a matter within the domain of the House Committee on Appropriations, which has jurisdiction over the “Appropriation of the revenue for the support of the Government.”⁵

Furthermore, in addition to federal spending that occurs through the annual appropriations process, funding for the construction and maintenance of the nation’s roadways may also be drawn from the Highway Trust Fund, which accrues revenue mainly from the collection of federal gasoline taxes. The use of general revenues to fund a particular federal activity—in this case, highways—is by precedent considered a matter of revenue collection and within the purview of the House Committee on Ways and Means, which has jurisdiction over “Revenue measures generally.”⁶ Additional committees as well may exercise jurisdiction over aspects of the

¹ In limited cases legislation may be “held at the desk” of the House pending a referral to committee. This may occur, for instance, if jurisdictional questions arise regarding a measure’s referral, or if the House anticipates using a Senate bill in an amendment exchange process of resolving differences with the Senate. Messages from the Senate, including Senate-passed bills and Senate amendments to House-passed measures, are referred (or not) at the discretion of the Speaker.

² For instance, clause 1(r)(19) of House Rule X provides the House Committee on Transportation and Infrastructure with jurisdiction over “Roads and the safety thereof,” a subject broadly construed, as opposed to any particular federal department or program involved with roads or road safety (for example, the U.S. Department of Transportation, the National Highway Safety Administration, the National Highway Traffic Safety Administration, or the National Transportation Safety Board).

³ U.S. Congress, House, *Constitution, Jefferson’s Manual, and Rules of the House of Representatives*, H.Doc. 115-177, 115th Cong., 2nd sess. (Washington: GPO, 2019), §714-§741, pp. 445-495.

⁴ The Transportation and Infrastructure Committee may also report legislation committing federal highway trust funds to specific road projects, a form of direct (or “mandatory”) spending that occurs outside the annual appropriations process. *Congressional Record*, vol. 139 (September 22, 1993), pp. H6890-H6891.

⁵ Clause 1(b)(1) of House Rule X.

⁶ Clause 1(t)(3) of House Rule X. See also the Speaker’s announced policy for the 116th Congress (2019-2020) on the referral of measures carrying a tax or tariff to the Committee on Ways and Means. *Congressional Record*, vol. 165

nation's roadways, depending on how subjects within their jurisdictions are connected to issues involving roads.⁷

Referral of Legislation in the House

When a Member introduces a bill or resolution, or when legislation from the Senate is received in the House, clause 2 of House Rule XII directs the Speaker to refer the measure to committee

in such manner as to ensure to the maximum extent feasible that each committee that has jurisdiction under clause 1 of Rule X over the subject matter of a provision thereof may consider such provision and report to the House thereon.⁸

Multiple referral—referring a measure to more than one committee—is common in the House as a result of the standing rules governing jurisdiction (Rule X) and the referral of legislation to committee (Rule XII). When language in a measure is within a committee's jurisdiction, it will trigger (“to the maximum extent feasible”) a referral of the measure to that committee. In practice, the entire bill is sent to each committee of referral with the expectation that each committee will act only on matters that fall within its jurisdiction. Committees often monitor their own legislative actions and those of their counterparts for any jurisdictional issues that may arise when a committee reports its recommended changes to the House.

When legislation is multiply referred, the Speaker identifies a “primary” committee of referral, which is the panel understood to exercise jurisdiction over the main subject of the measure.⁹ House Rule XII further provides the Speaker with the authority to refer legislation to more than one committee either at the point of introduction (an “initial additional referral”), or after another committee has filed its report (a “sequential referral”).¹⁰ The Speaker may also divide a measure into its component parts and refer individual pieces to different House panels (a “split referral”), but split referrals are rare in current practice.

The Speaker is empowered to place time limits on any referral and always does so in the case of a sequential referral. In most cases, once the primary committee has reported to the House, the Speaker will set a deadline for additional committees of referral to report or be automatically discharged from further consideration.¹¹ Although the Speaker has the authority to do so, rarely

(January 3, 2019), p. H199.

⁷ For instance, the safety of vehicles that travel along the nation's roadways is considered a matter of consumer protection within the domain of the House Energy and Commerce Committee, which exercises jurisdiction over “Consumer affairs and consumer protection.” Clause 1(f)(2) of House Rule X.

⁸ U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives*, H.Doc. 115-177, 115th Cong., 2nd sess. (Washington: GPO, 2019), §816, pp. 627-628. Additional items as well may be referred to committee on the basis of Rule XII, including petitions and memorials, communications or reports from executive departments or independent agencies, and rules submitted under the Congressional Review Act (5 U.S.C. §§801-808).

⁹ Beginning in the 108th Congress (2003-2004), the Speaker was granted the authority in “extraordinary circumstances” to designate more than one committee as the primary committee of referral. This authority apparently has been used three times since 2003. Each instance involved legislation dealing with the Medicare Part D prescription drug benefit, which was referred jointly to the Committees on Energy and Commerce and Ways and Means. See H.R. 1 (108th Congress, P.L. 108-173); H.R. 2473 (108th Congress); and H.Res. 776 (108th Congress).

¹⁰ Clause 2(c) of Rule XII authorizes the Speaker to limit a sequential referral to those portions of a measure that directly affect subjects within the sequential committee's jurisdiction.

¹¹ When legislation is multiply referred, the Speaker instructs committees to deliberate on its contents “for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.” This language means that if a committee recommends changes to a measure that exceed its Rule X jurisdiction, a committee member may rise to a point of order to allege a violation of Rule X.

are time limits established on deliberations of a primary committee, or extended beyond the deadline imposed by a sequential referral. Due to their presumed expertise on matters within their jurisdiction, committees of primary or sole referral generally enjoy deference from the House on whether or not to report legislation to the full chamber.

With House approval, the Speaker may appoint Members from relevant committees of jurisdiction to a special, select, or ad hoc committee in order to receive and review specific matters and report to the House its findings or recommendations.¹² Rule XII further indicates that the Speaker “may make such other [referral] provision as may be considered appropriate.”¹³ House rules vest these powers of referral in the Speaker; in practice, the House Parliamentarian makes day-to-day referral decisions acting as the Speaker’s nonpartisan and disinterested agent.¹⁴

Worth noting is that House rules and procedures for referring legislation have changed in recent decades. For instance, prior to January 3, 1975, House rules provided no formal mechanism for a measure to be referred to two or more committees with a jurisdictional claim to the measure’s subject matter. The ability of the Speaker to refer legislation to more than one committee was first established in House rules through the adoption of H.Res. 988 (93rd Congress), the Committee Reform Amendments of 1974, which became effective at the start of the 94th Congress (1975-1976). Furthermore, at the outset of the 98th Congress (1983-1984), Speaker O’Neill announced a policy of identifying a “primary” committee of jurisdiction when legislation was multiply referred, and beginning in the 104th Congress (1995-1996) the designation of a primary committee of referral by the Speaker has been a requirement of House rules.¹⁵

Additional Factors Affecting Jurisdiction and Referral

Clause 1 of House Rule X is the main determinant of House committee jurisdiction, but other factors may also influence how legislation is referred. For instance, some committees have crafted written memoranda between them memorializing their common understanding of the jurisdictional boundaries guiding the referral of measures on topics that are jurisdictionally ambiguous, or over which multiple committees make a claim. Such memoranda cannot override the explicit jurisdictional statements of Rule X, but they can be viewed as explanations of the committees’ common understanding of these statements. In some cases, committees have published these memoranda in the *Congressional Record*.¹⁶

¹² See, for instance, H.Res. 449 (107th Congress), which established a Select Committee on Homeland Security for the purpose of making recommendations to the House on the establishment of a new U.S. Department of Homeland Security.

¹³ U.S. Congress, House, *Constitution, Jefferson’s Manual, and Rules of the House of Representatives*, H.Doc. 115-177, 115th Cong., 2nd sess. (Washington: GPO, 2019), §816, p. 629.

¹⁴ Acting as the Speaker’s agent, the Parliamentarian will hear and consider oral or written arguments from interested Members when making referral decisions on contested or ambiguous bill language.

¹⁵ *Congressional Record*, vol. 129 (January 3, 1983), p. H25. For a useful summary of recent House rules changes affecting the referral of measures, see *Deschler-Brown-Johnson-Sullivan Precedents*, vol. 18, H.Doc. 94-661, 94th Cong., 2nd sess. (Washington: GPO, 1976-2013), pp. 563-566.

¹⁶ For instance, at the start of the 110th Congress (2007-2008), the House Committees on Homeland Security and on Transportation and Infrastructure published a memorandum clarifying how the two committees understood the jurisdictional boundaries surrounding legislation addressing the U.S. Coast Guard. See *Congressional Record*, vol. 153 (January 4, 2007), pp. H15-H16.

The act of referring measures to committees also can serve as a determinant of House committee jurisdiction. According to *Hinds' Precedents of the U.S. House of Representatives*, when the House refers “a bill or resolution to any committee ... jurisdiction is thereby conferred.”¹⁷ Consequently, once a measure has been referred to a committee, precedent is established for future referrals to that committee of measures of the same type. This is true even in the case of an erroneous reference to committee. If the error is not corrected, jurisdiction is conferred on the committee by the referral.¹⁸ If a measure is enacted into law, amendments to the law are presumed to be within the originating committee’s jurisdiction.

The referral of certain kinds of measures may also be defined in statute. The House rulebook contains 35 different sets of statutory legislative procedures (also called “expedited” or “fast-track” procedures) that apply only to a narrow class of items described in the statute itself.¹⁹ Some statutory procedures contain “automatic referral” provisions specifying the committee(s) to which a particular item would be referred if one were introduced or received by the House. For instance, if the Defense Base Closure Commission reports to Congress a recommendation to relocate or close U.S. military bases, the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510) allows for expedited consideration of a House or Senate joint resolution disapproving the commission’s recommendation. If such a joint resolution were introduced in the House, Section 2908(b) of that act indicates that it “shall be referred to the Committee on Armed Services.”²⁰

Jurisdiction and Referral to House Subcommittees

The jurisdictions of subcommittees are not explicitly stated in House rules. The jurisdiction of a subcommittee is generally determined by the full committee that created it. In many cases, the full committee will establish the jurisdictions of its subcommittees in the rules that committees are required to adopt during the first few months of a new Congress.²¹ If a subcommittee’s jurisdiction is not defined by its parent committee, measures are generally referred to subcommittee or retained by the full committee at the discretion of its chair. Some committees rely more heavily on their subcommittees to process legislation and make recommendations than do other committees.²²

¹⁷ Asher C. Hinds, *Hinds' Precedents of the House of Representatives of the United States* (Washington: GPO, 1907), vol. IV, §4362, p. 853.

¹⁸ Several options exist to correct an erroneous reference, the most common method being agreement by the affected committees to re-refer the measure to the proper committee(s) by unanimous consent; see, for instance, *Congressional Record*, vol. 159 (July 25, 2013), p. H5055. House agreement to a motion to refer offers an alternative approach, although this method of correction has rarely been used in recent decades. The Speaker may also be called upon to help adjudicate a jurisdictional dispute.

¹⁹ U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives*, H.Doc. 115-177, 115th Cong., 2nd sess. (Washington: GPO, 2019), §1130, pp. 1147-1336.

²⁰ 10 U.S.C. 2687 note.

²¹ See, for example, Rule 4 adopted by the Committee on Armed Services for the 116th Congress (2019-2020): <https://armedservices.house.gov/committee-rules#0D456DEB-8D11-4DF4-A8E3-D4D778DFDA61>.

²² For instance, some of the most active subcommittees include those of the House Committee on Appropriations. Each of the 12 Appropriations subcommittees is responsible for drafting one of the annual appropriations bills to fund the operations of the federal government. Due to this central role in the legislative process, the chairs of the Appropriations subcommittees are informally known as the “College of Cardinals,” a term used by the Catholic Church to refer to its senior leadership.

Legislative and Oversight Jurisdiction

An important distinction can be drawn between legislative and oversight jurisdiction. Legislative jurisdiction describes the authority of a committee to receive and report measures to the House. Oversight jurisdiction refers to a committee's ability to review matters within its purview, for instance by conducting hearings and investigations. Legislative jurisdiction is defined in clause 1 of Rule X, while clause 2 of the same rule directs all standing committees to "review and study on a continuing basis the application, administration, execution, and effectiveness of laws and programs addressing subjects within its [legislative] jurisdiction."²³ Several committees are given additional oversight duties in clause 3 of Rule X, and the fourth clause of that rule specifies additional functions committees are expected to fulfill. Clause 4(f) of Rule X, for instance, instructs each standing committee to submit to the Budget Committee its "views and estimates" on policy proposals contained in the President's budget submission to Congress that fall within its jurisdiction.²⁴

Some committees interpret their oversight responsibilities more broadly than others do, which can lead to jurisdictional disputes over which committee is best equipped to conduct hearings, investigations, or other oversight activities.²⁵ Many policy areas are complex and multidimensional, and considering how subject matter responsibilities are allocated broadly across committees, more than one committee may be involved in overseeing specific aspects of a general subject. Similar to the example of roads explained above in which a number of committees can play a role based on their subject matter (legislative) jurisdictions, oversight of a given area might also be shared by committees exercising different Rule X responsibilities.²⁶

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²³ U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives*, H.Doc. 115-177, 115th Cong., 2nd sess. (Washington: GPO, 2019), §742, p. 496.

²⁴ U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives*, H.Doc. 115-177, 115th Cong., 2nd sess. (Washington: GPO, 2019), §756, p. 513.

²⁵ For information on the various tools committees use to perform oversight, see CRS Report RL30240, *Congressional Oversight Manual*, coordinated by Christopher M. Davis, Walter J. Oleszek, and Ben Wilhelm.

²⁶ Unlike with legislative jurisdiction, there are no bill referral precedents through which to understand oversight jurisdiction. Moreover, disputes involving oversight jurisdiction generally cannot be adjudicated through a point of order on a measure. Committees with shared responsibilities over a particular policy area may choose to coordinate their oversight activities, for instance through the conduct of a joint hearing.

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