

- (b) urge prompt consideration; 43.2b
 - (c) arrange for interviews or appointments; 43.2c
 - (d) express judgments; 43.2d
 - (e) call for reconsideration of an administrative response which the Member believes is not reasonably supported by statutes, regulations or considerations of equity or public policy; or 43.2e
 - (f) perform any other service of a similar nature consistent with the provisions of this rule. 43.2f
3. The decision to provide assistance to petitioners may not be made on the basis of contributions or services, or promises of contributions or services, to the Member's political campaigns or to other organizations in which the Member has a political, personal, or financial interest. 43.3
4. A Member shall make a reasonable effort to assure that representations made in the Member's name by any Senate employee are accurate and conform to the Member's instructions and to this rule. 43.4
5. Nothing in this rule shall be construed to limit the authority of Members, and Senate employees, to perform legislative, including committee, responsibilities. 43.5
- 6.⁹² No Member, with the intent to influence solely on the basis of partisan political affiliation an employment decision or employment practice of any private entity, shall— 43.6
- (a) take or withhold, or offer or threaten to take or withhold, an official act; or 43.6a
 - (b) influence, or offer or threaten to influence the official act of another. 43.6b

RULE XLIV⁹³

44

CONGRESSIONALLY DIRECTED SPENDING AND RELATED ITEMS

1. (a) It shall not be in order to vote on a motion to proceed to consider a bill or joint resolution reported by any committee unless the chairman of the committee of jurisdiction or the Majority Leader or his or her designee certifies— 44.1a
- (1) that each congressionally directed spending item, limited tax benefit, and limited tariff benefit, if any, in the bill or joint resolution, or in the committee report accompanying the bill or joint resolution, has been identified through lists, charts, or other similar means including the

⁹² Paragraph 6 added pursuant to Pub. L. 110–81, Sep. 14, 2007.⁹³ Rule XLIV added pursuant to Pub. L. 110–81, Sep. 14, 2007.

name of each Senator who submitted a request to the committee for each item so identified; and

(2) that the information in clause (1) has been available on a publicly accessible congressional website in a searchable format at least 48 hours before such vote.

44.1b (b) If a point of order is sustained under this paragraph, the motion to proceed shall be suspended until the sponsor of the motion or his or her designee has requested resumption and compliance with this paragraph has been achieved.

44.2a 2. (a) It shall not be in order to vote on a motion to proceed to consider a Senate bill or joint resolution not reported by committee unless the chairman of the committee of jurisdiction or the Majority Leader or his or her designee certifies—

(1) that each congressionally directed spending item, limited tax benefit, and limited tariff benefit, if any, in the bill or joint resolution, has been identified through lists, charts, or other similar means, including the name of each Senator who submitted a request to the sponsor of the bill or joint resolution for each item so identified; and

(2) that the information in clause (1) has been available on a publicly accessible congressional website in a searchable format at least 48 hours before such vote.

44.2b (b) If a point of order is sustained under this paragraph, the motion to proceed shall be suspended until the sponsor of the motion or his or her designee has requested resumption and compliance with this paragraph has been achieved.

44.3a 3. (a) It shall not be in order to vote on the adoption of a report of a committee of conference unless the chairman of the committee of jurisdiction or the Majority Leader or his or her designee certifies—

(1) that each congressionally directed spending item, limited tax benefit, and limited tariff benefit, if any, in the conference report, or in the joint statement of managers accompanying the conference report, has been identified through lists, charts, or other means, including the name of each Senator who submitted a request to the committee of jurisdiction for each item so identified; and

(2) that the information in clause (1) has been available on a publicly accessible congressional website at least 48 hours before such vote.

(b) If a point of order is sustained under this paragraph, 44.3b then the conference report shall be set aside.

4. (a) If during consideration of a bill or joint resolution, 44.4a a Senator proposes an amendment containing a congressionally directed spending item, limited tax benefit, or limited tariff benefit which was not included in the bill or joint resolution as placed on the calendar or as reported by any committee, in a committee report on such bill or joint resolution, or a committee report of the Senate on a companion measure, then as soon as practicable, the Senator shall ensure that a list of such items (and the name of any Senator who submitted a request to the Senator for each respective item included in the list) is printed in the Congressional Record.

(b) If a committee reports a bill or joint resolution that 44.4b includes congressionally directed spending items, limited tax benefits, or limited tariff benefits in the bill or joint resolution, or in the committee report accompanying the bill or joint resolution, the committee shall as soon as practicable identify on a publicly accessible congressional website each such item through lists, charts, or other similar means, including the name of each Senator who submitted a request to the committee for each item so identified. Availability on the Internet of a committee report that contains the information described in this subparagraph shall satisfy the requirements of this subparagraph.

(c) To the extent technically feasible, information made 44.4c available on publicly accessible congressional websites under paragraphs 3 and 4 shall be provided in a searchable format.

5. For the purpose of this rule— 44.5

(a) the term “congressionally directed spending 44.5a item” means a provision or report language included primarily at the request of a Senator providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

- 44.5b** (b) the term “limited tax benefit” means—
- (1) any revenue provision that—
 - (A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and
 - (B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision;
- 44.5c** (c) the term “limited tariff benefit” means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities; and
- 44.5d** (d) except as used in subparagraph 8(e), the term “item” when not preceded by “congressionally directed spending” means any provision that is a congressionally directed spending item, a limited tax benefit, or a limited tariff benefit.
- 44.6a** 6. (a) A Senator who requests a congressionally directed spending item, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report (or an accompanying joint statement of managers) shall provide a written statement to the chairman and ranking member of the committee of jurisdiction, including—
- (1) the name of the Senator;
 - (2) in the case of a congressionally directed spending item, the name and location of the intended recipient or, if there is no specifically intended recipient, the intended location of the activity;
 - (3) in the case of a limited tax or tariff benefit, identification of the individual or entities reasonably anticipated to benefit, to the extent known to the Senator;
 - (4) the purpose of such congressionally directed spending item or limited tax or tariff benefit; and
 - (5) a certification that neither the Senator nor the Senator’s immediate family has a pecuniary interest in the item, consistent with the requirements of paragraph 9.
- 44.6b** (b) With respect to each item included in a Senate bill or joint resolution (or accompanying report) reported by committee or considered by the Senate, or included in a conference report (or joint statement of managers accom-

panying the conference report) considered by the Senate, each committee of jurisdiction shall make available for public inspection on the Internet the certifications under subparagraph (a)(5) as soon as practicable.

7. In the case of a bill, joint resolution, or conference report that contains congressionally directed spending items in any classified portion of a report accompanying the measure, the committee of jurisdiction shall, to the greatest extent practicable, consistent with the need to protect national security (including intelligence sources and methods), include on the list required by paragraph 1, 2, or 3 as the case may be, a general program description in unclassified language, funding level, and the name of the sponsor of that congressionally directed spending item. **44.7**

8. (a) A Senator may raise a point of order against one or more provisions of a conference report if they constitute new directed spending provisions. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. **44.8a**

(b) If the Presiding Officer sustains the point of order as to any of the provisions against which the Senator raised the point of order, then those provisions against which the Presiding Officer sustains the point of order shall be stricken. After all other points of order under this paragraph have been disposed of— **44.8b**

(1) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report that has not been stricken; and

(2) the question in clause (1) shall be decided under the same debate limitation as the conference report and no further amendment shall be in order.

(c) Any Senator may move to waive any or all points of order under this paragraph with respect to the pending conference report by an affirmative vote of three-fifths of the Members, duly chosen and sworn. All motions to waive under this paragraph shall be debatable collectively for not to exceed 1 hour equally divided between the Majority Leader and the Minority Leader or their designees. A motion to waive all points of order under this paragraph shall not be amendable. **44.8c**

- 44.8d** (d) All appeals from rulings of the Chair under this paragraph shall be debatable collectively for not to exceed 1 hour, equally divided between the Majority and the Minority Leader or their designees. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair under this paragraph.
- 44.8e** (e) The term “new directed spending provision” as used in this paragraph means any item that consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.
- 44.9** 9. No Member, officer, or employee of the Senate shall knowingly use his official position to introduce, request, or otherwise aid the progress or passage of congressionally directed spending items, limited tax benefits, or limited tariff benefits a principal purpose of which is to further only his pecuniary interest, only the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he or his immediate family, or enterprises controlled by them, are members of the affected class.
- 44.10** 10. Any Senator may move to waive application of paragraph 1, 2, or 3 with respect to a measure by an affirmative vote of three-fifths of the Members, duly chosen and sworn. A motion to waive under this paragraph with respect to a measure shall be debatable for not to exceed 1 hour equally divided between the Majority Leader and the Minority Leader or their designees. With respect to points of order raised under paragraphs 1, 2, or 3, only one appeal from a ruling of the Chair shall be in order, and debate on such an appeal from a ruling of the Chair on such point of order shall be limited to one hour.
- 44.11** 11. Any Senator may move to waive all points of order under this rule with respect to the pending measure or motion by an affirmative vote of three-fifths of the Members, duly chosen and sworn. All motions to waive all points of order with respect to a measure or motion as provided by this paragraph shall be debatable collectively for not to exceed 1 hour equally divided between the Majority Leader and the Minority Leader or their designees. A motion to waive all points of order with respect to a measure

or motion as provided by this paragraph shall not be amendable.

12. Paragraph 1, 2, or 3 of this rule may be waived by **44.12** joint agreement of the Majority Leader and the Minority Leader of the Senate upon their certification that such waiver is necessary as a result of a significant disruption to Senate facilities or to the availability of the Internet.

APPENDIX TO STANDING RULES OF THE
SENATE

[NOTE.—S. Res. 445, 108–2, a resolution to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence, passed the Senate Oct. 9, 2004. The resolution made several changes to the jurisdiction, treatment and name of Senate Committees. However, the provisions of S. Res. 445 did not modify the Standing Rules of the Senate and therefore could not be included in this document except as an appendix. The effective date for the provisions of the resolution was the convening of the 109th Congress. Titles I, III and V of S. Res. 445 are printed in this appendix.

S. RES. 445

To eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

IN THE SENATE OF THE UNITED STATES

October 1, 2004

Mr. Lott submitted the following resolution; which was referred to the Committee on Rules and Administration

October 5, 2004

Reported by Mr. Lott, without amendment

October 9, 2004

Considered, amended, and agreed to

RESOLUTION

To eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Resolved,

§ 100. Purpose.

45

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

46 § 101. Homeland security.

- 46.a** (a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.
- 46.b** (b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
- (1) Department of Homeland Security, except matters relating to—
 - (A) the Coast Guard, the Transportation Security Administration, the Federal Law Enforcement Training Center or the Secret Service; and
 - (B)(i) the United States Citizenship and Immigration Service; or
 - (ii) the immigration functions of the United States Customs and Border Protection or the United States Immigration and Custom Enforcement or the Directorate of Border and Transportation Security; and
 - (C) the following functions performed by any employee of the Department of Homeland Security—
 - (i) any customs revenue function including any function provided for in section 415 of the Homeland Security Act of 2002 (Public Law 107–296);
 - (ii) any commercial function or commercial operation of the Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement, including matters relating to trade facilitation and trade regulation; or
 - (iii) any other function related to clause (i) or (ii) that was exercised by the United States Customs Service on the day before the effective date of the Homeland Security Act of 2002 (Public Law 107–296).

The jurisdiction of the Committee on Homeland Security and Governmental Affairs in this paragraph shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate: *Provided*, That the jurisdiction provided under section 101(b)(1) shall not include the National Flood Insurance Act of 1968, or functions of the Federal Emergency Management Agency related thereto.

- (2) Archives of the United States.
- (3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.
- (4) Census and collection of statistics, including economic and social statistics.
- (5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.
- (6) Federal Civil Service.
- (7) Government information.
- (8) Intergovernmental relations.
- (9) Municipal affairs of the District of Columbia, except appropriations therefor.
- (10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) **ADDITIONAL DUTIES.**—The committee shall have the duty of— **46.c**

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) **JURISDICTION OF BUDGET COMMITTEE.**—Notwithstanding paragraph (b)(3) of this section, and except as otherwise provided in the Congressional Budget Act of 1974, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, which are— **46.d**

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as “re-scissions” and “deferrals”;

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.

(e) **OMB NOMINEES.**—The Committee on the Budget and the Committee on Homeland Security and Governmental Affairs shall have joint jurisdiction over the nominations of persons nominated by the President to fill the positions of Director and Deputy Director for Budget within **46.e**

the Office of Management and Budget, and if one committee votes to order reported such a nomination, the other must report within 30 calendar days session, or be automatically discharged.

TITLE III—COMMITTEE STATUS

47 § 301. Committee status.

- 47.a** (a) **HOMELAND SECURITY.**—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.
- 47.b** (b) **INTELLIGENCE.**—The Select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

TITLE V—EFFECTIVE DATE

48 § 501. Effective date.

This resolution shall take effect on the convening of the 109th Congress.