

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 4768) TO AMEND TITLE 5, UNITED STATES CODE, WITH RESPECT TO THE JUDICIAL REVIEW OF AGENCY INTERPRETATIONS OF STATUTORY AND REGULATORY PROVISIONS; PROVIDING FOR PROCEEDINGS DURING THE PERIOD FROM JUNE 23, 2016, THROUGH JULY 4, 2016; AND PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

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JUNE 23 (legislative day of JUNE 22), 2016.—Referred to the House Calendar and ordered to be printed

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Mr. SESSIONS, from the Committee on Rules,  
submitted the following

## R E P O R T

[To accompany H. Res. 796]

The Committee on Rules, having had under consideration House Resolution 796, by a record vote of 9 to 3, report the same to the House with the recommendation that the resolution be adopted.

### SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 4768, the Separation of Powers Restoration Act of 2016, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in this

report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of concurrent resolutions providing for adjournment during the month of July, 2016.

Section 3 of the resolution provides that on any legislative day during the period from June 23, 2016, through July 4, 2016: the Journal of the proceedings of the previous day shall be considered as approved; and the Chair may at any time declare the House adjourned to meet at a date and time to be announced by the Chair in declaring the adjournment.

Section 4 of the resolution provides that the Speaker may appoint Members to perform the duties of the Chair for the duration of the period addressed by section 4 of the resolution as though under clause 8(a) of rule I.

Section 5 of the resolution provides that it shall be in order at any time on the legislative day of June 23, 2016, or June 24, 2016, for the Speaker to entertain motions that the House suspend the rules and that the Speaker or his designee shall consult with the Minority Leader or her designee on the designation of any matter for consideration pursuant to this section.

#### EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill includes a waiver of clause 3(e)(1) of rule XIII (“Ramseyer”), requiring a committee report accompanying a bill amending or repealing statutes to show, by typographical device, parts of statute affected. The waiver is provided because the submission provided by the Committee on the Judiciary was insufficient to meet the standards established by the rule in its current form. The Committee on Rules continues to work with the House Office of Legislative Counsel and committees to determine the steps necessary to comply with the updated rule.

Although the resolution waives all points of order against the amendment in the nature of a substitute made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in this report, the Committee is not aware of any points of order. The waiver of all points of order is prophylactic in nature.

Section 3 of the resolution includes a waiver of all points of order against consideration of a July 4th adjournment resolution. While adjournment resolutions are ordinarily privileged, a point of order could be raised against the July 4th district work period adjournment resolution for failure to comply with section 309 of the Budget Act. Section 309 prohibits the House from adjourning for more than three days in July unless the House has completed action on all appropriations bills. Since the House has not yet completed all action on appropriations bills, this provision is necessary.

#### COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

*Rules Committee record vote No. 195*

Motion by Ms. Slaughter to require the Speaker to bring up H.R. 1076, the Denying Firearms and Explosives to Dangerous Terrorists Act, under an open rule, and that the Speaker's postponement authority under clause 1(c) of rule XIX not apply to consideration of the bill. Defeated: 3–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Cole .....	Nay	Mr. McGovern .....	Yea
Mr. Woodall .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Burgess .....	Nay	Mr. Polis .....	.....
Mr. Stivers .....	Nay		
Mr. Collins .....	Nay		
Mr. Byrne .....	Nay		
Mr. Newhouse .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 196*

Motion by Mr. Cole to report the rule. Adopted: 9–3

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Yea	Ms. Slaughter .....	Nay
Mr. Cole .....	Yea	Mr. McGovern .....	Nay
Mr. Woodall .....	Yea	Mr. Hastings of Florida .....	Nay
Mr. Burgess .....	Yea	Mr. Polis .....	.....
Mr. Stivers .....	Yea		
Mr. Collins .....	Yea		
Mr. Byrne .....	Yea		
Mr. Newhouse .....	Yea		
Mr. Sessions, Chairman .....	Yea		

## SUMMARY OF THE AMENDMENTS MADE IN ORDER

1. Conyers (MI): Exempts from the bill rules issued by the Environmental Protection Agency pertaining to regulation of lead or copper in drinking water. (10 minutes)

2. Jackson Lee (TX): Excludes cases where rules are issued by the Department of Homeland Security and pertain to matters of national security. (10 minutes)

3. Meeks (NY): Exempts from the bill rules issued by the Department of Housing and Urban Development. (10 minutes)

4. Johnson, Hank (GA): Exempts from the bill rules issued pursuant to an express grant of authority from Congress. (10 minutes)

5. Cicilline (RI): Preserves judicial deference to agency expertise during the review of consumer safety rules issued by the Commissioner of the Food and Drug Administration. (10 minutes)

## TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CONYERS OF MICHIGAN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 11, insert after “extent necessary” the following “, and except as otherwise provided in this section”.

Page 4, line 3, insert after the period at the end the following:

**SEC. 3. EXCEPTED RULES.**

Section 706 of title 5, United States Code, as amended by this Act, is further amended by adding at the end the following:

“(c) In the case of a rule made by the Administrator of the Environmental Protection Agency pertaining to regulation of lead or copper in drinking water, to the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.”.

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 11, insert after “extent necessary” the following “, and except as otherwise provided in this section”.

Page 4, line 3, insert after the period at the end the following:

**SEC. 3. EXCEPTED RULES.**

Section 706 of title 5, United States Code, as amended by this Act, is further amended by adding at the end the following:

“(c) In the case of a rule made by the Secretary of Homeland Security pertaining to any matter of national security, to the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.”.

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MEEKS OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 11, insert after “extent necessary” the following “, and except as otherwise provided in this section”.

Page 4, line 3, insert after the period at the end the following:

**SEC. 3. EXCEPTED RULES.**

Section 706 of title 5, United States Code, as amended by this Act, is further amended by adding at the end the following:

“(c) In the case of a rule made by the Secretary of Housing and Urban Development, to the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.”.

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JOHNSON OF GEORGIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 11, insert after “extent necessary” the following “, and except as otherwise provided in this section”.

Page 4, line 3, insert after the period at the end the following:

**SEC. 3. EXCEPTED RULES.**

Section 706 of title 5, United States Code, as amended by this Act, is further amended by adding at the end the following:

“(c) In the case of a rule made pursuant to an explicit grant of authority in any statute, to the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.”.

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CICILLINE OF RHODE ISLAND OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 11, insert after “extent necessary” the following “, and except as otherwise provided in this section”.

Page 4, line 3, insert after the period at the end the following:

**SEC. 3. EXCEPTED RULES.**

Section 706 of title 5, United States Code, as amended by this Act, is further amended by adding at the end the following:

“(c) In the case of a rule made by the Commissioner of Food and Drugs of the Food and Drug Administration that pertains to consumer safety, to the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.”.