

V. *Hearings*

1. NOTICE. Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least forty-eight hours notice, and all witnesses called shall be furnished with a copy of these rules upon request.

2. OATH. All witnesses who testify to matters of fact shall be sworn unless the Committee waives the oath. The Chairman, or any member, may request and administer the oath.

3. STATEMENT. Any witness desiring to make an introductory statement shall file 50 copies of such statement with the Chairman or clerk of the Committee 24 hours in advance of his appearance, unless the Chairman and Ranking Minority Member determine that there is good cause for a witness's failure to do so. A witness shall be allowed no more than ten minutes to orally summarize his prepared statement.

## 4. COUNSEL:

(a) A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing or depositions or staff interview to advise such witness of his rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation, or association.

(b) A witness is unable for economic reasons to obtain counsel may inform the Committee at least 48 hours prior to the witness's appearance, and it will endeavor to obtain volunteer counsel for the witness. Such counsel shall be subject solely to the control of the witness and not the Committee. Failure to obtain counsel will not excuse the witness from appearing and testifying.

5. TRANSCRIPT. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record, and for this purpose, a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting his transcript, within a time limit set by the committee clerk, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious errors of fact, the Chairman or a staff officer designated by him shall rule on such request.

6. IMPUGNED PERSONS. Any person who believes that evidence presented, or comment made by a Member or staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his character or adversely affect his reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

(b) request the opportunity to appear personally before the Committee to testify in his own behalf; and

(c) submit questions in writing which he requests be used for the cross-examination of other witnesses called by the Committee. The Chairman shall inform the Committee of such requests for appearance or cross-examination. If the Committee so decides; the requested questions, or paraphrased versions or portions of them, shall be put to the other witness by a Member or by staff.

7. MINORITY WITNESSES. Whenever any hearing is conducted by the Committee, the minority on the Committee shall be entitled, upon request made by a majority of the mi-

nority Members to the Chairman, to call witnesses selected by the minority to testify or produce documents with respect to the measure or matter under consideration during at least one day of the hearing. Such request must be made before the completion of the hearing or, if subpoenas are required to call the minority witnesses, no later than three days before the completion of the hearing.

8. CONDUCT OF WITNESSES, COUNSEL AND MEMBERS OF THE AUDIENCE. If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing the Chairman or presiding Member of the Committee present during such hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.

VI. *Depositions and commissions*

1. NOTICE. Notices for the taking of depositions in an investigation authorized by the Committee shall be authorized and issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a Committee subpoena.

2. COUNSEL. Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of Rule V.4.

3. PROCEDURE. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee staff. Objections by the witnesses as to the form of questions shall be noted by the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Committee staff may proceed with the deposition, or may at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from a Member of the Committee. If the Member overrules the objection, he may refer the matter to the Committee or he may order and direct the witness to answer the question, but the Committee shall not initiate the procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been ordered and directed to answer by a Member of the Committee.

4. FILING. The Committee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review. No later than five days thereafter, the witness shall return a signed copy, and the staff shall enter the changes, if any, requested by the witness in accordance with Rule V.6. If the witness fails to return a signed copy, the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record to the testimony, and the transcript shall then be filed with the Committee clerk. Committee staff may stipulate with the witness to changes in this procedure; deviations from the procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

5. COMMISSIONS. The Committee may authorize the staff by issuance of commissions,

to fill in prepared subpoenas, conduct field hearings, inspect locations, facilities, or systems of records, or otherwise act on behalf of the Committee. Commissions shall be accompanied by instructions from the Committee regulating their use.

VII. *Subcommittees*

1. ESTABLISHMENT. The Committee will operate as a Committee of the Whole, reserving to itself the right to establish temporary subcommittees at any time by majority vote. The Chairman of the full Committee and the Ranking Minority Member shall be ex officio Members of all subcommittees.

2. JURISDICTION. Within its jurisdiction as described in the Standing Rules of the Senate, each subcommittee is authorized to conduct investigations, including use of subpoenas, depositions, and commissions.

3. RULES. A subcommittee shall be governed by the Committee rules, except that its quorum for all business shall be one-third of the subcommittee Membership, and for hearings shall be one Member.

VIII. *Reports*

Committee reports incorporating Committee findings and recommendations shall be printed only with the prior approval of the Committee, after an adequate period for review and comment. The printing, as Committee documents, of materials prepared by staff for informational purposes, or the printing of materials not originating with the Committee or staff, shall require prior consultation with the minority staff; these publications shall have the following language printed on the cover of the document: "Note: This document has been printed for informational purposes. It does not represent either findings or recommendations formally adopted by the Committee."

IX. *Amendment of rules*

The rules of the Committee may be amended or revised at any time, provided that not less than a majority of the Committee present so determine at a Committee meeting preceded by at least 3 days notice of the amendments or revisions proposed.●

## RULES OF THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

● Mr. D'AMATO. Mr. President, in accordance with rule XXVI, paragraph 2, of the Standing Rule of the Senate, I hereby submit for publication in the CONGRESSIONAL RECORD, the rules of the Committee on Banking, Housing, and Urban Affairs.

The rules follow:

### RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

(Adopted in executive session, January 28, 1997)

#### RULE 1.—REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month that the Senate is in Session; except that if the Committee has met at any time during the month prior to the last Tuesday of the month, the regular meeting of the Committee may be canceled at the discretion of the Chairman.

#### RULE 2.—COMMITTEE

(a) Investigations.—No investigation shall be initiated by the Committee unless the Senate, or the full Committee, or the Chairman and Ranking Minority Member have specifically authorized such investigation.

(b) Hearing.—No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the

Chairman of the Committee and the Ranking Minority Member of the Committee or by a majority vote of the Committee.

(c) Confidential testimony.—No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public either in whole or in part by way of summary, unless specifically authorized by the Chairman of the Committee and the Ranking Minority Member of the Committee or by a majority vote of the Committee.

(d) Interrogation of witnesses.—Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chairman or the Ranking Minority Member of the Committee.

(e) Prior notice of markup sessions.—No session of the Committee or a Subcommittee for marking up any measure shall be held unless (1) each member of the Committee or the Subcommittee, as the case may be, has been notified in writing of the date, time, and place of such session and has been furnished a copy of the measure to be considered at least 3 business days prior to the commencement of such session, or (2) the Chairman of the Committee or Subcommittee determines that exigent circumstances exist requiring that the session be held sooner.

(f) Prior notice of first degree amendments.—It shall not be in order for the Committee or a Subcommittee to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless (1) fifty written copies of such amendment have been delivered to the office of the Committee at least 2 business days prior to the meeting, or (2) with respect to multiple first degree amendments, each of which would strike a single section of the measure under consideration, fifty copies of a single written notice listing such specific sections have been delivered to the Committee at least 2 business days prior to the meeting. An amendment to strike a section of the measure under consideration by the Committee or Subcommittee shall not be amendable in the second degree by the Senator offering the amendment to strike. This subsection may be waived by a majority of the members of the Committee or Subcommittee voting, or by agreement of the Chairman and Ranking Minority Member. This subsection shall apply only when at least 3 business days written notice of a session to markup a measure is required to be given under subsection (e) of this rule.

(g) Cordon rule.—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or Subcommittee, from initial consideration in hearings through final consideration, the Clerk shall place before each member of the Committee or Subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added. In addition, whenever a member of the Committee or Subcommittee offers an amendment to a bill or joint resolution under consideration, those amendments shall be presented to the Committee or Subcommittee in a like form, showing by typographical devices the effect of the proposed amendment on existing law. The requirements of this subsection may be waived when, in the opinion of the Committee or Subcommittee Chairman, it is necessary to expedite the business of the Committee or Subcommittee.

#### RULE 3.—SUBCOMMITTEES

(a) Authorization for.—A Subcommittee of the Committee may be authorized only by the action of a majority of the Committee.

(b) Membership.—No member may be a member of more than three Subcommittees and no member may chair more than one Subcommittee. No member will receive assignment to a second Subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one Subcommittee, and no member shall receive assignment to a third Subcommittee until, in order of seniority, all members have chosen assignments to two Subcommittees.

(c) Investigations.—No investigation shall be initiated by a Subcommittee unless the Senate or the full Committee has specifically authorized such investigation.

(d) Hearings.—No hearing of a Subcommittee shall be scheduled outside the District of Columbia without prior consultation with the Chairman and then only by agreement between the Chairman of the Subcommittee and the Ranking Minority Member of the Subcommittee or by a majority vote of the Subcommittee.

(e) Confidential testimony.—No confidential testimony taken or confidential material presented at an executive session of the Subcommittee or any report of the proceedings of such executive session shall be made public, either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Subcommittee and the Ranking Minority Member of the Subcommittee, or by a majority vote of the Subcommittee.

(f) Interrogation of witnesses.—Subcommittee interrogation of a witness shall be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the Ranking Minority Member of the Subcommittee.

(g) Special meetings.—If at least three members of a Subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, those members may file in the offices of the Committee their written request to the Chairman of the Subcommittee for that special meeting. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their written notice that a special meeting of the Subcommittee will be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Subcommittee that such special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular or special meeting of the Subcommittee, the Ranking Member of the majority party on the Subcommittee who is present shall preside at the meeting.

(h) Voting.—No measure or matter shall be recommended from a Subcommittee to the Committee unless a majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter to the Committee shall require the concurrence of a majority of the members of the Subcommittee voting. On Subcommittee matters other than a vote to recommend a measure or matter to the Committee no record vote shall be taken unless a majority of the Subcommittee is actually present. Any absent member of a Subcommittee may affirmatively request that his or her vote to recommend a measure or matter to the Committee or his vote on any such other matters

on which a record vote is taken, be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter and to inform the Subcommittee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman of the Subcommittee any time before the record vote on the measure or matter concerned is taken, the member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee.

#### RULE 4.—WITNESSES

(a) Filing of statements.—Any witness appearing before the Committee or Subcommittee (including any witness representing a Government agency) must file with the Committee or Subcommittee (24 hours preceding his or her appearance) 120 copies of his statement to the Committee or Subcommittee, and the statement must include a brief summary of the testimony. In the event that the witness fails to file a written statement and brief summary in accordance with this rule, the Chairman of the Committee or Subcommittee has the discretion to deny the witness the privilege of testifying before the Committee or Subcommittee until the witness has properly complied with the rule.

(b) Length of statements.—Written statements properly filed with the Committee or Subcommittee may be as lengthy as the witness desires and may contain such documents or other addenda as the witness feels is necessary to present properly his or her views to the Committee or Subcommittee. The brief summary included in the statement must be no more than 3 pages long. It shall be left to the discretion of the Chairman of the Committee or Subcommittee as to what portion of the documents presented to the Committee or Subcommittee shall be published in the printed transcript of the hearings.

(c) Ten-minute duration.—Oral statements of witnesses shall be based upon their filed statements but shall be limited to 10 minutes duration. This period may be limited or extended at the discretion of the Chairman presiding at the hearings.

(d) Subpoena of witnesses.—Witnesses may be subpoenaed by the Chairman of the Committee or a Subcommittee with the agreement of the Ranking Minority Member of the Committee or Subcommittee or by a majority vote of the Committee or Subcommittee.

(e) Counsel permitted.—Any witness subpoenaed by the Committee or Subcommittee to a public or executive hearing may be accompanied by counsel of his or her own choosing who shall be permitted, while the witness is testifying, to advise him or her of his or her legal rights.

(f) Expenses of witnesses.—No witness shall be reimbursed for his or her appearance at a public or executive hearing before the Committee or Subcommittee unless such reimbursement is agreed to by the Chairman and Ranking Minority Member of the Committee.

(g) Limits of questions.—Questioning of a witness by members shall be limited to 5 minutes duration when 5 or more members are present and 10 minutes duration when less than 5 members are present, except that if a member is unable to finish his or her questioning in this period, he or she may be permitted further questions of the witness after all members have been given an opportunity to question the witness.

Additional opportunity to question a witness shall be limited to a duration of 5 minutes until all members have been given the opportunity of questioning the witness for a second time. This 5-minute period per member will be continued until all members have exhausted their questions of the witness.

## RULE 5.—VOTING

(a) Vote to report a measure or matter.—No measure or matter shall be reported from the Committee unless a majority of the Committee is actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his or her vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the rollcall vote of the members present and voting, as an official record of the vote on the measure or matter.

(b) Vote on matters other than to report a measure or matter.—On Committee matters other than a vote to report a measure or matter, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his or her vote may be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

## RULE 6.—QUORUM

No executive session of the Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing in of witnesses, and the taking of testimony.

## RULE 7.—STAFF PRESENT ON DAIS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompany him or her during such public or executive hearing on the dais. If a member desires a second staff person to accompany him or her on the dais he or she must make a request to the Chairman for that purpose.

## RULE 8.—COINAGE LEGISLATION

At least 40 Senators must cosponsor any gold medal or commemorative coin bill or resolution before consideration by the Committee.

## EXTRACTS FROM THE STANDING RULES OF THE SENATE

## RULE XXV. STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

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(d)(1) Committee on Banking, Housing, and Urban Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Banks, banking, and financial institutions.

2. Control of prices of commodities, rents, and services.

3. Deposit insurance.

4. Economic stabilization and defense production.

5. Export and foreign trade promotion.

6. Export controls.

7. Federal monetary policy, including Federal Reserve System.

8. Financial aid to commerce and industry.

9. Issuance and redemption of notes.

10. Money and credit, including currency and coinage.

11. Nursing home construction.

12. Public and private housing (including veterans' housing).

13. Renegotiation of Government contracts.

14. Urban development and urban mass transit.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to international economic policy as it affects United States monetary affairs, credit, and financial institutions; economic growth, urban affairs, and credit, and report thereon from time to time.

## COMMITTEE PROCEDURES FOR PRESIDENTIAL NOMINEES

Procedures formally adopted by the U.S. Senate Committee on Banking, Housing, and Urban Affairs, February 4, 1981, establish a uniform questionnaire for all Presidential nominees whose confirmation hearings come before this Committee.

In addition, the procedures establish that:

(1) A confirmation hearing shall normally be held at least 5 days after receipt of the completed questionnaire by the Committee unless waived by a majority vote of the Committee.

(2) The Committee shall vote on the confirmation not less than 24 hours after the Committee has received transcripts of the hearing unless waived by unanimous consent.

(3) All nominees routinely shall testify under oath at their confirmation hearings.

This questionnaire shall be made a part of the public record except for financial information, which shall be kept confidential.

Nominees are requested to answer all questions, and to add additional pages where necessary. •

## ORDER OF BUSINESS

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 314 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THOMAS. Mr. President, I thank you for the time. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

## BALANCED BUDGET CONSTITUTIONAL AMENDMENT AND SOCIAL SECURITY TRUST FUNDS

Mr. REID. Mr. President, hopefully the week we get back, we will be able to start a serious debate on the most important issue relating to the balanced budget amendment, namely whether or not Social Security trust fund moneys should be counted in the constitutional amendment to balance the budget.

There will be an amendment offered, of course, that the Social Security trust fund moneys should be excluded from that. It seems each day that goes by we get added support for our amendment. We have received support over the months from various individuals, and just yesterday we received an opinion from the Congressional Research Service of the Library of Congress that was very important.

There has been some talk in the Chamber today that they have changed their opinion. Nothing could be further from the truth. And that certainly can come from reading the transmission from the American Law Division of the Congressional Research Service today. My friend, the Senator from North Dakota, will discuss this when I complete my remarks. But, Mr. President, all you need to do is read this new document that they put out where it says:

Only if no other receipts in any particular year could be found would the possibility of a limitation on drawing down the Trust Funds arise. Even in this eventuality, however, Congress would retain the authority, under the [balanced budget amendment] to raise revenues—

Of course, if you can get a supermajority.

or to reduce expenditures—

That's very true, you could continue to cut.

to obtain the necessary moneys to make good on the liquidation of securities from the Social Security Trust Funds.

Mr. President, this is certainly the same opinion that they rendered yesterday. The Social Security Trust Fund is the largest money out there, this year, \$80 billion. This is being applied toward the deficit to make it look smaller. And that is all they are saying, that is, in effect, when it comes time to balance the budget, they will look to Social Security. The way the balanced budget amendment is written, if there are not surpluses over and above the Social Security Trust Fund moneys, people simply would not be able to draw their checks.

I will yield the floor—

Mr. DORGAN. I wonder if the Senator will yield?

Mr. REID. I will be happy to.

Mr. DORGAN. Mr. President, I wanted to make an observation and make a point. The Congressional Research Service has sent a second letter. I wanted to make the point the Senator from Nevada made. The second letter says the same as the first letter on the question of whether surpluses in the Social Security Trust Fund can be used in the outyears to be spent for Social Security needs. The answer is, in the first letter from CRS and in the second, the answer is no, unless there is a corresponding tax increase in the same fiscal year, or corresponding spending cuts, equal to those surpluses. And that is the very point we were making.

The second letter from the Congressional Research Service simply says the same thing that they said earlier with slightly different wording. We