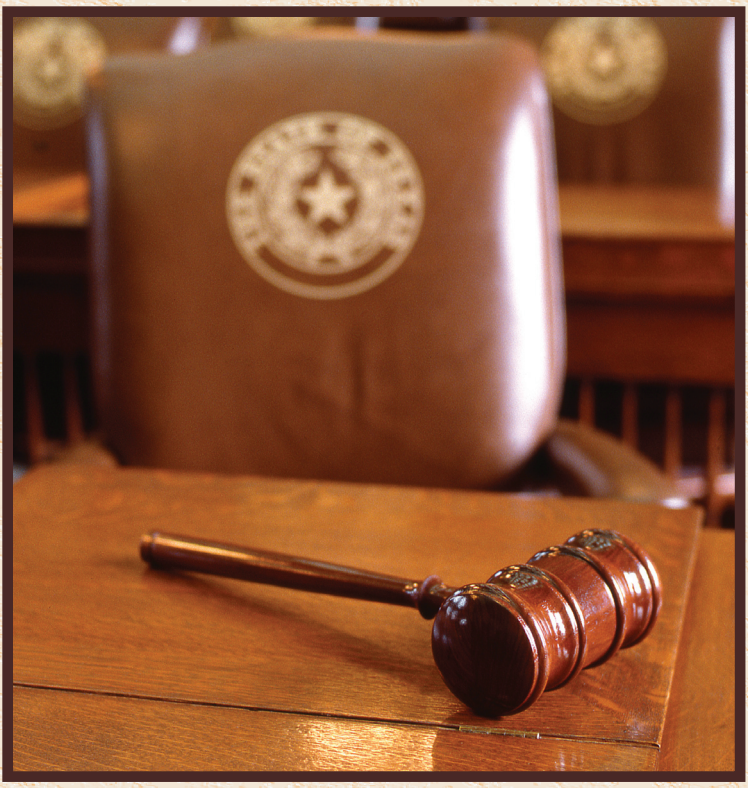
Rules and Precedents of the Texas House



80th Legislature
2007

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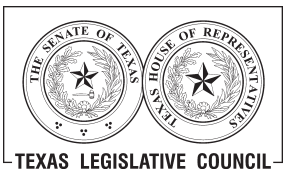

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Speaker Tom Craddick, Joint Chair
Milton Rister, Executive Director

January 2007

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80th Legislature
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Rule 1. Duties and Rights of the Speaker

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Rules and Precedents of the Texas House

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Statement of Authorization and Precedence

Pursuant to and under the authority of Section 11, Article III, Texas Constitution, and notwithstanding any provision of statute, the House of Representatives adopts the following rules to govern its operations and procedures. The provisions of these rules shall be deemed the only requirements binding on the House of Representatives under Section 11, Article III, Texas Constitution, notwithstanding any other requirements expressed in statute.

RULE 1

Duties and Rights of the Speaker

Chapter A. Duties as Presiding Officer

Section 1. Enforcement of the Rules — The speaker shall enforce, apply, and interpret the rules of the house in all deliberations of the house and shall enforce the legislative rules prescribed by the statutes and the Constitution of Texas.

Section 2. Call to Order — The speaker shall take the chair on each calendar day precisely at the hour to which the house adjourned or recessed at its last sitting and shall immediately call the members to order.

EXPLANATORY NOTES

See Rule 6, Sec. 1, concerning the daily order of business.

Section 3. Laying Business Before the House — The speaker shall lay before the house its business in the order indicated by the rules and shall receive propositions made by members and put them to the house.

Section 4. Referral of Proposed Legislation to Committee — All proposed legislation shall be referred by the speaker to an appropriate standing or select committee with jurisdiction, subject to correction by a majority vote of the house. A bill or resolution may not be referred simultaneously to more than one committee.

EXPLANATORY NOTES

It has been the practice for speakers to correct the reference only when a bill has been referred in error to an improper committee. Such correction is done very shortly after the original reference, however, usually long before any committee action is possible.

Section 5. Preservation of Order and Decorum — The speaker shall preserve order and decorum. In case of disturbance or disorderly conduct in the galleries or in the lobby, the speaker may order that these areas be cleared. No signs, placards, or other objects of similar nature shall be permitted in the rooms, lobby, gallery, and hall of the house. The speaker shall see that the members of the house conduct themselves in a civil manner in accordance with accepted standards of parliamentary conduct and may, when necessary, order the sergeant-at-arms to clear the aisles and seat the members of the house so that business may be conducted in an orderly manner.

Section 6. Recognition of Gallery Visitors — On written request of a member, the speaker may recognize persons in the gallery. The speaker shall afford that recognition at a convenient place in the order of business, considering the need for order and decorum and the need for continuity of debate. The request must be made on a form prescribed by the Committee on House Administration. The speaker may recognize, at a time he or she considers appropriate during floor proceedings, the person serving as physician of the day.

Section 7. Stating and Voting on Questions — The speaker shall rise to put a question but may state it sitting. The question shall be put substantially in this form: "The question occurs on ____" (here state the question or proposition under consideration). "All in favor say 'Aye,'" and after the affirmative vote is expressed, "All opposed say 'No.'" If the speaker is in doubt as to the result, or if a division is called for, the house shall divide: those voting in the affirmative on the question shall register "Aye" on the voting machine, and those voting in the negative on the question shall register "No." The decision of the house on the question shall be printed in the journal and shall include the yeas and nays if a record of the yeas and nays is ordered in accordance with the rules.

EXPLANATORY NOTES

1. Technically, under the above section, a call for a division is eligible only after a viva voce vote, the basic voting form prescribed by the rules. Sometimes members will start calling for a division even before the question is put. Most of the time the chair acquiesces, and the division votes are taken directly on the voting machine. However, the above section is clear, and nothing could prevent the chair from listening first to a viva voce vote and announcing the result unless a division is called for before the result is announced, in which case it must be granted.
2. See Rule 5, Sec. 40, concerning voting on the machine.

Section 8. Voting Rights of the Presiding Officer — The speaker shall have the same right as other members to vote. If the speaker, or a member temporarily presiding, has not voted, he or she may cast the deciding vote at the time such opportunity becomes official, whether to make or break a tie. If a verification of the vote is called for and granted, the decision of the speaker, or a member temporarily presiding, to cast the deciding vote need not be made until the verification has been completed. In case of error in a vote,

if the correction leaves decisive effect to the vote of the speaker, or a member temporarily presiding, the deciding vote may be cast even though the result has been announced.

EXPLANATORY NOTES

1. See Sec. 10 of this rule and precedents following concerning temporary presiding officers.
2. See Rule 5, Sec. 55, and notes following concerning verification.

Section 9. Questions of Order — (a) The speaker shall decide on all questions of order; however, such decisions are subject to an appeal to the house made by any 10 members. Pending an appeal, the speaker shall call a member to the chair, who shall not have the authority to entertain or decide any other matter or proposition until the appeal has first been determined by the house. The question on appeal is, "Shall the chair be sustained?"

(b) No member shall speak more than once on an appeal unless given leave by a majority of the house. No motion shall be in order, pending an appeal, except a motion to adjourn, a motion to lay on the table, a motion for the previous question, or a motion for a call of the house. Responses to parliamentary inquiries and decisions of recognition made by the chair may not be appealed.

(c) Further consideration of the matter or proposition that is the subject of a question of order is prohibited until the speaker decides the question of order and any appeal of that decision has been determined by the house. Consideration of any other matter or proposition is also prohibited while a question of order is pending, unless the question of order is temporarily withdrawn and the matter or proposition that is the subject of the question of order is postponed. Withdrawal of the question of order does not prevent any member from raising that question of order when the matter or proposition is again before the house.

EXPLANATORY NOTES

1. Many points of order are raised concerning the constitutionality of bills, legislative procedures, and legislative powers. Through many sessions the speakers have followed the plan of refusing to rule on constitutional points not related to legislative procedure, of ruling on constitutional procedural points where no doubt exists, or, where doubt exists, either submitting the points to the house for determination or overruling the points directly then passing them on to the house for determination, in effect, on the vote involved. As a general rule the speaker does not submit points of order to the house on questions of procedure under the rules.
2. While the speaker may, under unusual circumstances, submit a constitutional procedural point directly to the house, it is contrary to well-established parliamentary practice to submit other points of order directly to the house for a decision.
3. The speaker may occasionally review committee proceedings for the purpose of ruling on a point of order raised against further consideration of a bill because of a violation of the house rules during committee proceedings.

4. The purpose of Rule 1, Sec. 9(c), is to provide the chair with procedures for the prompt disposition of questions of order.

5. See House Precedents following Rule 4, Sec. 14, concerning appeals from rulings of the chair.

HOUSE PRECEDENTS

1. RAISING POINTS OF ORDER AT THE PROPER TIME. — The house was considering H.B. 136, the previous question having been ordered on a sequence of motions, including engrossment of the bill. Votes were taken on all motions short of engrossment. Then a motion was made to reconsider the vote by which the previous question was ordered. This motion prevailed. Mr. Morse then raised a point of order that such motion cannot be made after one or more votes have been taken under the previous question, short of the final vote.

The speaker, Mr. Daniel, overruled the point of order on the ground that it came too late. (48 H.J. Reg. 1024 (1943)).

The point of order would have been good before the vote on reconsideration.

2. INTERVENING BUSINESS NOT NECESSARILY PREJUDICIAL TO A POINT OF ORDER. — Mr. Hartsfield moved to reconsider the vote by which H.B. 79 passed to engrossment. Mr. Crosthwait moved to table, and the motion failed. Then Mr. Bell raised the point of order that Mr. Hartsfield had not voted on the prevailing side and that his motion was therefore out of order. Opponents argued that Mr. Bell's point of order came too late, that it should have been made as soon as the motion was made.

The speaker, Mr. Senterfitt, sustained Mr. Bell's point of order, pointing out that since no action had been taken on the motion proper, the point of order had not come too late. (52 H.J. Reg. 1918 (1951)).

CONGRESSIONAL PRECEDENTS

DECISIONS OF THE SPEAKER. — The speaker may inquire for what purpose a member rises and then may deny recognition (6 C.P. 289), and an inquiry to ascertain for what purpose a member rises does not constitute recognition (6 C.P. 293). While circumscribed by the rules and practice of the house, the exercise of the power of recognition is not subject to a point of order (6 C.P. 294). The speaker may require that a question of order be presented in writing (5 H.P. 6865). He is not required to decide a question not directly presented by the proceedings (2 H.P. 1314). Debate on a point of order, being for his information, is within his discretion (5 H.P. 6919, 6920). In discussing questions of order the rule of relevancy is strictly construed and debate is confined to the point of order and does not admit reference to the merits of the pending proposition (6 C.P. 3449). Preserving the authority and binding force of parliamentary law is as much the duty of each member of the house as it is the duty of the chair (Speaker Gillett, Jan. 3, 1923, 67th Cong., 4th Session, p. 1205). Points of order are recorded in the journal (4 H.P. 2840, 2841), but responses to parliamentary inquiries are not so recorded (4 H.P. 2842). He does not decide on the legislative effect of propositions (2 H.P. 1274, 1323, 1324), or on the consistency of proposed action with other acts of the house (2 H.P. 1327-1336), or on the constitutional powers of the house (2 H.P. 1255, 1318-1320, 1490; 4 H.P. 3507), or on the propriety or expediency of a proposed

course of action (2 H.P. 1275, 1325, 1326, 1337; 4 H.P. 3091-3093, 3127). It is not the duty of the chair to decide hypothetical points of order or to anticipate questions which may be suggested in advance of regular order (6 C.P. 249); nor is it the duty of the chair to construe the constitution as affecting proposed legislation (6 C.P. 250). The effect or purport of a proposition is not a question to be passed on by the chair, and a point of order as to the competency or meaning of an amendment does not constitute a parliamentary question (6 C.P. 254). When precedents conflict, the chair is constrained to give greatest weight to the latest decisions (6 C.P. 248).

APPEALS. — The right of appeal cannot be taken away from the house (5 H.P. 6002). An appeal is not in order while another is pending (5 H.P. 6939-6941). Neither a motion nor an appeal may intervene between the motion to adjourn and the taking of the vote thereon (5 H.P. 5361). An appeal from the decision of the chair may be entertained during the proceedings to secure a quorum (4 H.P. 3037). A member may not speak more than once on an appeal except by permission of the house (2 H.P. 133; 5 H.P. 6938).

Section 10. Appointment of Speaker Pro Tempore and Temporary Chair — The speaker shall have the right to name any member to perform the duties of the chair and may name a member to serve as speaker pro tempore by delivering a written order to the chief clerk and a copy to the journal clerk. A permanent speaker pro tempore shall, in the absence or inability of the speaker, call the house to order and perform all other duties of the chair in presiding over the deliberations of the house and perform other duties and exercise other responsibilities as may be assigned by the speaker. If the house is not in session, and a permanent speaker pro tempore has not been named, or if the speaker pro tempore is not available or for any reason is not able to function, the speaker may deliver a written order to the chief clerk, with a copy to the journal clerk, naming the member who shall call the house to order and preside during the speaker's absence. The speaker pro tempore shall serve at the pleasure of the speaker.

CONGRESSIONAL PRECEDENTS

SPEAKER PRO TEMPORE. — A call of the house may take place with a speaker pro tempore in the chair (4 H.P. 2989), and he may issue his warrant for the arrest of absent members under a call of the house (63rd Cong., 1st Session, p. 5498). When the speaker is not present at the opening of a session he designates a speaker pro tempore in writing (2 H.P. 1378, 1401), but he does not always name in open house the member whom he calls to the chair temporarily during the day's sitting (2 H.P. 1379, 1400).

Section 11. Emergency Adjournment — In the event of an emergency of such compelling nature that the speaker must adjourn the house without fixing a date and hour of reconvening, the speaker shall have authority to determine the date and hour of reconvening and to notify the members of the house by any means the speaker considers adequate. Should the speaker be disabled or otherwise unable to exercise these emergency powers, the permanent speaker pro tempore, if one has been named, shall have authority to act. If there is no

permanent speaker pro tempore, or if that officer is unable to act, authority shall be exercised by the chair of the Committee on State Affairs, who shall preside until the house can proceed to the selection of a temporary presiding officer to function until the speaker or the speaker pro tempore is again able to exercise the duties and responsibilities of the office.

Section 12. Postponement of Reconvening — When the house is not in session, if the speaker determines that it would be a hazard to the safety of the members, officers, employees, and others attending the legislature to reconvene at the time determined by the house at its last sitting, the speaker may clear the area of the capitol under the control of the house and postpone the reconvening of the house for a period of not more than 12 hours. On making that determination, the speaker shall order the sergeant-at-arms to post an assistant at each first floor entrance to the capitol and other places and advise all persons entering of the determination and the time set for the house to reconvene. The speaker shall also notify the journal clerk and the news media of the action, and the action shall be entered in the house journal.

Section 13. Signing Bills and Resolutions — All bills, joint resolutions, and concurrent resolutions shall be signed by the speaker in the presence of the house, as required by the constitution; and all writs, warrants, and subpoenas issued by order of the house shall be signed by the speaker and attested by the chief clerk, or the person acting as chief clerk.

EXPLANATORY NOTES

See House Precedents following Rule 8, Sec. 13.

Chapter B. Administrative Duties

Section 14. Control Over Hall of the House — The speaker shall have general control, except as otherwise provided by law, of the hall of the house, its lobbies, galleries, corridors, and passages, and other rooms in those parts of the capitol assigned to the use of the house; except that the hall of the house shall not be used for any meeting other than legislative meetings during any regular or special session of the legislature unless specifically authorized by resolution.

Section 15. Standing Committee Appointments — (a) The speaker shall designate the chair and vice-chair of each standing substantive committee and shall also appoint membership of the committee, subject to the provisions of Rule 4, Section 2.

(b) If members of equal seniority request the same committee, the speaker shall decide which among them shall be assigned to that committee.

(c) In announcing the membership of the standing substantive committees, the speaker shall designate which are appointees and which acquire membership by seniority.

(d) The speaker shall appoint the chair and vice-chair of each standing procedural committee and the remaining membership of the committee.

Section 16. Appointment of Select and Conference Committees — (a) The speaker shall appoint all conference committees. The speaker shall name the chair of each conference committee, and may also name the vice-chair thereof.

(b) The speaker may at any time by proclamation create a select committee. The speaker shall name the chair and vice-chair thereof. A select committee has the jurisdiction, authority, and duties and exists for the period of time specified in the proclamation. A select committee has the powers granted by these rules to a standing committee except as limited by the proclamation. A copy of each proclamation creating a select committee shall be filed with the chief clerk.

Section 17. Interim Studies — When the legislature is not in session, the speaker shall have the authority to direct committees to make interim studies for such purposes as the speaker may designate, and the committees shall meet as often as necessary to transact effectively the business assigned to them. The speaker shall provide to the chief clerk a copy of interim charges made to a standing or select committee.

Chapter C. Campaigns for Speaker

Section 18. Pledges for Speaker Prohibited During Regular Session — During a regular session of the legislature a member may not solicit written pledges from other members for their support of or promise to vote for any person for the office of speaker.

Rule 2. Employees

Chapter A. Duties of Employees of the House

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RULE 2
Employees

Chapter A. Duties of Employees of the House

Section 1. Chief Clerk — (a) The chief clerk shall:

(1) be the custodian of all bills, resolutions, and amendments;

(2) number in the order of their filing, with a separate sequence for each category, all bills, joint resolutions, concurrent resolutions, and house resolutions;

(3) provide for the keeping of a complete record of introduction and action on all bills and resolutions, including the number, author, brief description of the subject matter, committee reference, and the time sequence of action taken on all bills and resolutions to reflect at all times their status in the legislative process;

(4) on the day of numbering a bill relating to a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, send two copies of the bill, with two copies of the notice of intention to introduce the bill, to the governor and notify the journal clerk of the action;

(5) receive the recommendations of the Texas Commission on Environmental Quality on a bill forwarded to the commission under Article XVI, Section 59, of the Texas Constitution, attach them to the bill to which they apply, and notify the journal clerk that the recommendations have been filed;

(6) forward to the committee chair a certified copy of each legislative document referred to a committee along with certified copies of all official attachments to the document;

(7) have printed and distributed correct copies of all legislative documents, as provided in the subchapter on printing, and keep an exact record of the date and hour of transmittal to the printer, return from the printer, and distribution of the document to members of the house with that information time-stamped on the originals of the document;

(8) certify the passage of bills and resolutions, noting on them the date of passage and the vote by which passed, including the yeas and nays if a record of the yeas and nays is ordered;

(9) be responsible for engrossing all house bills and resolutions that have passed second reading and those that have passed third reading, and for enrolling all house bills and resolutions that have passed both houses.

All engrossed and enrolled documents shall be prepared without erasures, interlineations, or additions in the margin.

House concurrent resolutions passed without amendment shall not be engrossed but shall be certified and forwarded directly to the senate.

Engrossed riders may be used in lieu of full engrossment on second reading passage;

(10) be authorized to amend the caption to conform to the body of each house bill and joint resolution ordered engrossed or enrolled;

(11) be responsible for noting on each house bill or joint resolution, for certification by the speaker of the house, the lieutenant governor, the chief clerk of the house, and the secretary of the senate, the following information:

(A) date of final passage, and the vote on final passage, including the yeas and nays if a record of the yeas and nays is ordered. If the bill was amended in the senate, this fact shall also be noted;

(B) date of concurrence by the house in senate amendments, and the vote on concurrence, including the yeas and nays if a record of the yeas and nays is ordered;

(C) date of adoption by each house of a conference committee report and the vote on adoption, including the yeas and nays if a record of the yeas and nays is ordered;

(D) that a bill containing an appropriation was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution; and

(E) that a concurrent resolution was adopted by both houses directing the correction of an enrolled bill, if applicable;

(12) transmit over signature all messages from the house to the senate, including typewritten copies of amendments to senate bills;

(13) prepare copies of senate amendments to house bills for the journal before the amendments and the bill or resolution to which they relate are sent to the printer or to the speaker;

(14) notify the speaker in writing that the senate did not concur in house amendments to a bill or resolution and requests a conference committee, and include in this notice the names of the senate conferees;

(15) provide a certified copy of a house bill or resolution which may be lost showing each parliamentary step taken on the bill; and

(16) request fiscal notes on house bills and joint resolutions with senate amendments and distribute fiscal notes on house bills and joint resolutions with senate amendments and conference committee reports as required by Rule 13, Sections 5 and 10.

EXPLANATORY NOTES

1. See Rule 8, Sec. 17, and note following concerning engrossment of bills.

2. See Rule 11, Sec. 9, and note following concerning amendments to captions.

3. Only essential endorsements should be placed on an engrossed or finally passed bill. These would include: the fact and date of first reading and reference to a particular standing committee; the fact and date of report by the committee, showing its recommendation (if reported unfavorably, the fact and date bill was ordered printed on minority report should also be shown); the fact and date of and vote on passage to engrossment; the fact, date, and vote showing suspension of the constitutional rule requiring bills to be read on three several days, if such applies; the fact and date of and vote on final passage; and the date bill was sent to the senate. See also annotation under Rule 8, Sec. 21, re endorsements on bills passed under Art. 3, Sec. 49a, of the constitution.

4. Each house enrolls its own bills and resolutions; however, the joint rules may provide for a joint enrolling facility.

5. All concurrent resolutions, except those relating to procedural matters between the two houses, are presented to the governor for approval.

(b) The chief clerk shall also:

(1) attest all writs, warrants and subpoenas issued by order of the house;

(2) provide for issuance of an identification card to each member and employee of the house;

(3) receive reports of select committees and forward copies to the speaker and journal clerk;

(4) not later than 30 days after the close of each session, acquire from each of the various clerks of the house, except the journal clerk, all reports, records, bills, papers, and other documents remaining in their possession and file them with the Legislative Reference Library, unless otherwise provided by law;

(5) receive and file all other documents required by law or by the rules of the house;

(6) prepare a roster of members in order of seniority showing the number of years of service of each member, as provided in Rule 4, Section 2; and

(7) have printed and distributed the list of Items Eligible for Consideration as required by the rules.

(c) The chief clerk shall also provide for the following to be made available on the electronic legislative information system at the same time that the corresponding copies are placed in the members' newspaper mailboxes:

(1) all house calendars and lists of items eligible for consideration and the time-stamp information for those calendars and lists; and

(2) the time-stamp information for all official printings of bills and resolutions.

Section 2. Journal Clerk — The journal clerk shall:

(1) keep a journal of the proceedings of the house, except when the house is acting as a committee of the whole, and enter the following:

(A) the number, author, and caption of every bill introduced;

(B) descriptions of all congratulatory and memorial resolutions on committee report, motions, amendments, questions of order and decisions on them, messages from the governor, and messages from the senate;

(C) the summaries of congratulatory and memorial resolutions, as printed on the congratulatory and memorial calendar;

(D) the number of each bill, joint resolution, and concurrent resolution signed in the presence of the house;

(E) a listing of reports made by standing committees;

(F) reports of select committees, when ordered by the house;

(G) every vote where a record of the yeas and nays is ordered or registration of the house with a concise statement of the action and the result;

(H) the names of all absentees, both excused and not excused;

(I) senate amendments to house bills or resolutions, when concurred in by the house;

(J) the date each bill is transmitted to the governor;

(K) the date recommendations of the Texas Commission on Environmental Quality on each bill subject to Article XVI, Section 59, of the Texas Constitution, are filed with the chief clerk;

(L) all pairs as a part of a vote where a record of the yeas and nays is ordered;

(M) reasons for a vote;

(N) the vote of a member on any question where a record of the yeas and nays has not been ordered;

(O) the statement of a member who was absent when a vote was taken indicating how the member would have voted; and

(P) official state documents, reports, and other matters, when ordered by the house;

(2) prepare a daily journal for each calendar day that the house is in session and distribute copies to the members of the house on the succeeding calendar day or the earliest possible date; and

(3) prepare and have printed a permanent house journal of regular and special sessions in accordance with the law and the following provisions:

(A) When completed, no more than 300 copies shall be bound and distributed as follows:

(i) one copy to each member of the house of representatives;

(ii) one copy to each member of the senate; and

(iii) the remainder of the copies to be distributed by the Committee on House Administration.

(B) The journal clerk shall not receive or receipt for the permanent house journal until it has been correctly published.

EXPLANATORY NOTES

Majority and minority reports by committees are simply listed in the journal, not printed in full.

Section 3. Reading Clerks — The reading clerks, under the supervision of the speaker, shall:

(1) call the roll of the house in alphabetical order when ordered to do so by the speaker; and

(2) read all bills, resolutions, motions, and other matters required by the rules or directed by the speaker.

Section 4. Sergeant-at-Arms — The sergeant-at-arms shall:

(1) under the direction of the speaker, have charge of and maintain order in the hall of the house, its lobbies and galleries, and all other rooms in the capitol assigned for the use of the house of representatives;

(2) attend the house and the committee of the whole during all meetings and maintain order under the direction of the speaker or other presiding officer;

(3) execute the commands of the house and serve the writs and processes issued by the authority of the house and directed by the speaker;

(4) supervise assistants to the sergeant-at-arms who shall aid in the performance of prescribed duties and have the same authority, subject to the control of the speaker;

(5) clear the floor of the house of all persons not entitled to the privileges of the floor at least 30 minutes prior to the convening of each session of the house;

(6) bring in absent members when so directed under a call of the house;

(7) not allow the distribution of any printed matter in the hall of the house, other than newspapers that have been published at least once a week for a period of one year, unless it first has been authorized in writing by at least one member of the house and the name of the member appears on the printed matter. The sergeant-at-arms shall refuse to accept for distribution any printed matter which does not bear the name of the member or members authorizing the distribution;

(8) keep a copy of written authorization and a record of the matter distributed in the permanent files of the house;

(9) enforce parking regulations applicable to areas of the capitol complex under the control of the house and supervise parking attendants; and

(10) supervise the doorkeeper.

Section 5. Doorkeeper — The doorkeeper, under the supervision of the sergeant-at-arms, shall:

(1) enforce strictly the rules of the house relating to privileges of the floor and perform other duties as directed by the speaker;

(2) close the main entrance and permit no member to leave the house without written permission from the speaker when a call of the house or a call of the committee of the whole is ordered, take up permission cards as members leave the hall, and take up permission cards of those who are admitted to the floor of the house under the rules and practice of the house;

(3) obtain recognition from the speaker and announce a messenger from the governor or the senate on arrival at the bar of the house; and

(4) obtain recognition from the speaker and announce the arrival of the governor or the senate on arrival at the bar of the house for official proceedings in the house.

EXPLANATORY NOTES

1. In the 51st Legislature, the speaker, Mr. Manford, officially established the practice for the house, long in use by the senate, of placing a doorkeeper at the outer door of the house lobby, thereby making the lobby, the reception room and the sergeant-at-arms' office

also within the "bar of the house." The doorkeeper of the house controls the main door to the house floor.

2. See Rule 5, Secs. 11 and 12, for the list of persons entitled to the privileges of the floor when the house is in session.

Section 6. Chaplain — The chaplain shall open the first session on each calendar day with a prayer and shall perform such other duties as directed by the Committee on House Administration.

EXPLANATORY NOTES

See Rule 6, Sec. 1, concerning the daily order of business.

Section 7. Voting Clerk — The voting clerk, under the supervision of the speaker, shall:

(1) open and close the voting machine on registrations and record votes as ordered by the speaker;

(2) record votes from the floor as directed by the speaker;

(3) prepare official copies of all record votes for the journal;

(4) make no additions, subtractions, or other changes in any registration or record vote unless specifically granted permission by the house or directed by the speaker prior to the announcement of the final result; and

(5) lock the voting machine of each member who is excused or who is otherwise known to be absent when the house is in session until the member personally requests that the machine be unlocked.

Section 8. Committee Coordinator — The committee coordinator shall:

(1) under the direction of the Committee on House Administration, prepare a schedule for regular meetings of all standing committees as provided by Rule 4, Section 8(a);

(2) post committee meeting notices, as directed by the chair of a committee, in accordance with Rule 4, Section 11(a);

(3) maintain duplicate originals of committee minutes as required by Rule 4, Sections 18(c) and (d);

(4) maintain sworn statements from witnesses appearing before committees and, under the direction of the Committee on House Administration, prescribe the form of those statements, as required by Rule 4, Sections 20(a) and (c);

(5) receive and forward impact statements as required by Rule 4, Section 34(e);

(6) receive committee reports as required by Rule 4, Section 37, and refer them for printing as provided by Rule 6, Section 19; and

(7) receive and distribute the recommendations and final reports of interim study committees as provided by Rule 4, Section 61.

Chapter B. Other Employees

Section 9. Legislative Council Employees: Confidentiality — (a) Communications between an attorney employed by the Texas Legislative Council and the speaker, another member of the house, or an employee of a member or committee of the house are confidential in accordance with the rules and laws concerning attorney-client privilege.

(b) Communications between any employee of the Texas Legislative Council and the speaker, another member of the house, or an employee of a member or committee of the house are confidential. The General Investigating and Ethics Committee of the House may investigate an alleged violation of this subsection.

(c) This section does not prohibit the speaker, member, or committee from waiving a privilege as otherwise permitted by law or from waiving confidentiality under this section.

EXPLANATORY NOTES

There are numerous statutes, rules, and policies that impose a duty of confidentiality on legislative employees, particularly attorneys and staff who work for legislative agencies such as the Texas Legislative Council. *See, for example, Section 323.017, Government Code, Rule 1.05, Texas disciplinary Rules of Professional Conduct, and the Texas Legislative Council Confidentiality Policy*. A deliberate or accidental breach of the duty of confidentiality, whether by the youngest member of a legislator's staff at a cocktail reception or by a senior legislative agency employee, is serious. Legislative staff, regardless of whether they are employed by a member or a legislative agency, should be clear on their duties to strictly safeguard confidential information. This rule underscores the responsibility of legislative employees (specifically, those employed by the Texas Legislative Council) to maintain confidentiality in these communications.

It should be noted that an alleged violation of Rule 2, Sec. 9(b), may result in the referral of the matter to the General Investigating and Ethics Committee, where examination of evidence related to the confidential communication between a member, a member's staff, and the legislative council employee would be in order and would be conducted in a manner that does not itself reveal confidential information.

Rule 3. Standing Committees

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RULE 3
Standing Committees

Section 1. Agriculture and Livestock — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) agriculture, horticulture, and farm husbandry;

(2) livestock and stock raising, and the livestock industry;

(3) the development and preservation of forests, and the regulation, control, and promotion of the lumber industry;

(4) problems and issues particularly affecting rural areas of the state; and

(5) the following state agencies: the Department of Agriculture, the Texas Animal Health Commission, the State Soil and Water Conservation Board, the Texas Forest Service, the Office of South Central Interstate Forest Fire Protection Compact, the Office of Chief Apiary Inspector, the Texas Agricultural Experiment Station, the Texas Agricultural Extension Service, the Food and Fibers Research Council, the State Seed and Plant Board, the State Board of Veterinary Medical Examiners, the Texas Veterinary Medical Diagnostic Laboratory, the Produce Recovery Fund Board, the Texas Structural Pest Control Board, the board of directors of the Texas Boll Weevil Eradication Foundation, Inc., the Office of Rural Community Affairs, and the Texas Wildlife Damage Management Service.

Section 2. Appropriations — (a) The committee shall have 29 members, with jurisdiction over:

(1) all bills and resolutions appropriating money from the state treasury;

(2) all bills and resolutions containing provisions resulting in automatic allocation of funds from the state treasury;

(3) all bills and resolutions diverting funds from the state treasury or preventing funds from going in that otherwise would be placed in the state treasury; and

(4) all matters pertaining to claims and accounts filed with the legislature against the state unless jurisdiction over those bills and resolutions is specifically granted by these rules to some other standing committee.

(b) The appropriations committee may comment upon any bill or resolution containing a provision resulting in an automatic allocation of funds.

Section 3. Border and International Affairs — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) the relations between the State of Texas and other nations;

(2) international commerce and trade;

(3) international and border regions (as described in Sections 2056.002(e)(2) and (3), Government Code) economic development, public health and safety issues affecting the border, tourist development, and goodwill, and economic development, tourist development, and goodwill in other areas of the state that have experienced a significant increase in the percentage of the

population that consists of immigrants from other nations, according to the last two federal decennial censuses or another reliable measure; and

(4) the provision of public services to persons residing in proximity to Texas' international border or in other areas of the state that have experienced a significant increase in the percentage of the population that consists of immigrants from other nations, according to the last two federal decennial censuses or another reliable measure.

Section 4. Business and Industry — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) industry and manufacturing;

(2) industrial safety and adequate and safe working conditions, and the regulation and control of those conditions;

(3) hours, wages, collective bargaining, and the relationship between employers and employees;

(4) the regulation of business transactions and transactions involving property interests;

(5) the organization, incorporation, management, and regulation of private corporations and professional associations and the Uniform Commercial Code and the Texas Revised Limited Partnership Act;

(6) the protection of consumers, governmental regulations incident thereto, the agencies of government authorized to regulate such activities, and the role of the government in consumer protection;

(7) privacy and identity theft;

(8) homeowners' associations; and

(9) the following state agencies: the State Office of Risk Management, the Risk Management Board, the Division of Workers' Compensation of the Texas Department of Insurance, the workers' compensation research and evaluation group in the Texas Department of Insurance, the Office of Injured Employee Counsel, including the ombudsman program of that office, and the Texas Mutual Insurance Company Board of Directors.

Section 5. Calendars (Procedural) — The committee shall have 11 members, with jurisdiction over:

(1) the placement of bills and resolutions on appropriate calendars, except those within the jurisdiction of the Committee on Rules and Resolutions;

(2) the determination of priorities and proposal of rules for floor consideration of such bills and resolutions; and

(3) all other matters concerning the calendar system and the expediting of the business of the house as may be assigned by the speaker.

Section 6. Civil Practices — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) fines and penalties arising under civil laws;

(2) civil law, including rights, duties, remedies, and procedures thereunder;

(3) civil procedure in the courts of Texas;

(4) administrative law and the adjudication of rights by administrative agencies; and

(5) permission to sue the state.

Section 7. Corrections — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) the incarceration and rehabilitation of convicted felons;

(2) the establishment and maintenance of programs that provide alternatives to incarceration;

(3) the commitment and rehabilitation of youths;

(4) the construction, operation, and management of correctional facilities of the state and facilities used for the commitment and rehabilitation of youths; and

(5) the following state agencies: the Texas Department of Criminal Justice, the Board of Pardons and Paroles, the Texas Youth Commission, the Council on Sex Offender Treatment, the Texas Correctional Office on Offenders with Medical or Mental Impairments, the Private Sector Prison Industries Oversight Authority, and the Criminal Justice Policy Council.

Section 8. County Affairs — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) counties, including their organization, creation, boundaries, government, and finance and the compensation and duties of their officers and employees;

(2) establishing districts for the election of governing bodies of counties;

(3) regional councils of governments;

(4) multicounty boards or commissions;

(5) relationships or contracts between counties;

(6) other units of local government; and

(7) the following state agency: the Commission on Jail Standards.

Section 9. Criminal Jurisprudence — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) criminal law, prohibitions, standards, and penalties;

(2) probation and parole;

(3) criminal procedure in the courts of Texas;

(4) revision or amendment of the Penal Code; and

(5) the following state agencies: the Office of State Prosecuting Attorney and the Texas State Council for Interstate Adult Offender Supervision.

Section 10. Culture, Recreation, and Tourism — The committee shall have seven members, with jurisdiction over:

(1) the creation, operation, and control of state parks, including the development, maintenance, and operation of state parks in connection with

the sales and use tax imposed on sporting goods, but not including any matter within the jurisdiction of the Committee on Appropriations;

(2) the regulation and control of the propagation and preservation of wildlife and fish in the state;

(3) the development and regulation of the fish and oyster industries of the state;

(4) hunting and fishing in the state, and the regulation and control thereof, including the imposition of fees, fines, and penalties relating to that regulation;

(5) the regulation of other recreational activities;

(6) cultural resources and their promotion, development, and regulation;

(7) historical resources and their promotion, development, and regulation;

(8) promotion and development of Texas' image and heritage;

(9) preservation and protection of Texas' shrines, monuments, and memorials;

(10) international and interstate tourist promotion and development;

(11) the Texas Economic Development and Tourism Office as it relates to the subject-matter jurisdiction of this committee;

(12) the Gulf States Marine Fisheries Compact; and

(13) the following state agencies: the Parks and Wildlife Department, the Texas Commission on the Arts, the State Cemetery Committee, the Texas State Library and Archives Commission, the Texas Historical Commission, the State Preservation Board, the San Jacinto Historical Advisory Board, and an office of state government to the extent the office promotes the Texas music industry.

Section 11. Defense Affairs and State-Federal Relations — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) the relations between the State of Texas and the federal government;

(2) the relations between the State of Texas and other sovereign states of the United States;

(3) the various branches of the military service of the United States;

(4) the realignment or closure of military bases;

(5) the defense of the state and nation, including terrorism response;

(6) emergency preparedness;

(7) veterans of military and related services; and

(8) the following state agencies: the Office of State-Federal Relations, the Texas Military Facilities Commission, the Adjutant General's Department, the Texas Veterans Commission, the Veterans' Land Board, the Texas Military Preparedness Commission, the Division of Emergency Management, and the Emergency Management Council.

Section 12. Economic Development — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) commerce, trade, and manufacturing;

(2) economic and industrial development;

(3) job creation and job-training programs;

(4) hours, wages, collective bargaining, and the relationship between employers and employees;

(5) unemployment compensation, including coverage, benefits, taxes, and eligibility;

(6) boiler inspection and safety standards and regulation;

(7) labor unions and their organization, control, management, and administration;

(8) weights and measures;

(9) advances in science and technology, including telecommunications, electronic technology, and automated data processing;

(10) the promotion of scientific research, technological development, and technology transfer in the state;

(11) matters relating to cooperation of state and local governments with the scientific and technological community, which includes industry, the universities, and federal governmental laboratories; and

(12) the following state agencies: the Texas Economic Development and Tourism Office, the Texas Emerging Technology Committee, the Texas Workforce Commission, the Texas Workforce Investment Council, and the Texas National Research Laboratory Commission.

Section 13. Elections — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) the right of suffrage in Texas;

(2) primary, special, and general elections;

(3) revision, modification, amendment, or change of the Election Code;

(4) the secretary of state in relation to elections;

(5) campaign finance;

(6) the duties and conduct of candidates for public office and of persons with an interest in influencing public policy; and

(7) the following state agencies: the Office of the Secretary of State and the Texas Ethics Commission.

Section 14. Energy Resources — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) the conservation of the energy resources of Texas;

(2) the production, regulation, transportation, and development of oil, gas, and other energy resources;

(3) mining and the development of mineral deposits within the state;

(4) the leasing and regulation of mineral rights under public lands;

(5) pipelines, pipeline companies, and all others operating as common carriers in the state;

(6) electric utility regulation as it relates to energy production and consumption; and

(7) the following state agencies: the Railroad Commission of Texas, the Office of Interstate Oil Compact Commissioner for Texas, the Office of Interstate Mining Compact Commissioner for Texas, the Texas Energy Coordination Council, and the Office of Southern States Energy Board Member for Texas.

Section 15. Environmental Regulation — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) air, land, and water pollution, including the environmental regulation of industrial development;

(2) the regulation of waste disposal;

(3) environmental matters that are regulated by the Department of State Health Services or the Texas Commission on Environmental Quality;

(4) oversight of the Texas Commission on Environmental Quality as it relates to environmental regulation; and

(5) the following state agencies: the Texas Low-Level Radioactive Waste Disposal Compact Commission and the board of the Texas Environmental Education Partnership Fund.

Section 16. Financial Institutions — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) banking and the state banking system;

(2) savings and loan associations;

(3) credit unions;

(4) the regulation of state and local bonded indebtedness;

(5) the lending of money; and

(6) the following state agencies: the Finance Commission of Texas, the Credit Union Commission, the Office of Consumer Credit Commissioner, the Office of Banking Commissioner, the Texas Department of Banking, the Department of Savings and Mortgage Lending, the Texas Treasury Safekeeping Trust Company, the Texas Public Finance Authority, and the Bond Review Board.

Section 17. General Investigating and Ethics (Procedural) — (a) The General Investigating and Ethics Committee shall have five members of the house appointed by the speaker. The speaker shall appoint the chair and the vice-chair of the committee.

(b) The committee has all the powers and duties of a general investigating committee and shall operate as the general investigating committee of the house according to the procedures prescribed by Subchapter B, Chapter 301, Government Code, and the rules of the house, as applicable.

(c) The committee has jurisdiction over all matters pertaining to the conduct of and ethical standards applicable to state and local government officers and employees.

Section 18. Government Reform — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) the organization, operation, powers, regulations, and management of state departments, agencies, institutions, and advisory committees;

(2) elimination of inefficiencies in the provision of state services; and

(3) the following state agencies: the Texas Incentive and Productivity Commission and the Sunset Advisory Commission.

Section 19. Higher Education — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) education beyond high school;

(2) the colleges and universities of the State of Texas; and

(3) the following state agencies: the Texas Engineering Experiment Station, the Texas Engineering Extension Service, the Texas Higher Education Coordinating Board, the Texas Guaranteed Student Loan Corporation, the State Medical Education Board, the Prepaid Higher Education Tuition Board, and the Texas Transportation Institute.

Section 20. House Administration (Procedural) — (a) The committee shall have 11 members, with jurisdiction over:

(1) administrative operation of the house and its employees;

(2) the general house fund, with full control over all expenditures from the fund;

(3) all property, equipment, and supplies obtained by the house for its use and the use of its members;

(4) all office space available for the use of the house and its members;

(5) the assignment of vacant office space, vacant parking spaces, and vacant desks on the house floor to members with seniority based on cumulative years of service in the house, except that the committee may make these assignments based on physical disability of a member where it deems proper;

(6) all admissions to the floor during sessions of the house;

(7) all proposals to invite nonmembers to appear before or address the house or a joint session;

(8) all radio broadcasting and televising, live or recorded, of sessions of the house;

(9) the electronic recording of the proceedings of the house of representatives and the custody of the recordings of testimony before house committees, with authority to promulgate reasonable rules, regulations, and conditions concerning the safekeeping, reproducing, and transcribing of the recordings, and the defraying of costs for transcribing the recordings, subject to other provisions of these rules;

(10) all witnesses appearing before the house or any committee thereof in support of or in opposition to any pending legislative proposal; and

(11) the following state agency: the State Preservation Board.

(b) The committee must vote to adopt the annual budget for each house department.

Section 21. Human Services — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) welfare and rehabilitation programs and their development, administration, and control;

(2) oversight of the Health and Human Services Commission as it relates to the subject matter jurisdiction of this committee;

(3) mental retardation and the development of programs incident thereto;

(4) the prevention and treatment of mental retardation; and

(5) the following state agencies: the Department of Aging and Disability Services, the Department of Assistive and Rehabilitative Services, the Department of Family and Protective Services, the Texas State Board of Social Worker Examiners, the Texas Council on Purchasing from People with Disabilities, and the Texas State Board of Examiners of Professional Counselors.

Section 22. Insurance — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) insurance and the insurance industry;

(2) all insurance companies and other organizations of any type writing or issuing policies of insurance in the State of Texas, including their organization, incorporation, management, powers, and limitations; and

(3) the following state agencies: the Texas Department of Insurance, the Texas Health Benefits Purchasing Cooperative, and the Office of Public Insurance Counsel.

Section 23. Judiciary — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) uniform state laws;

(2) creating, changing, or otherwise affecting courts of judicial districts of the state;

(3) establishing districts for the election of judicial officers;

(4) the Texas Judicial Council;

(5) the State Commission on Judicial Conduct;

(6) the Office of the Attorney General, including its organization, powers, functions, and responsibilities;

(7) courts and court procedures except where jurisdiction is specifically granted to some other standing committee; and

(8) the following state agencies: the Supreme Court, the Courts of Appeals, the Court of Criminal Appeals, the State Commission on Judicial Conduct, the Office of Court Administration of the Texas Judicial System, the State Law Library, the Texas Judicial Council, the Guardianship Certification Board, the Office of the Attorney General, the Court Reporters Certification Board, and the Board of Law Examiners.

Section 24. Juvenile Justice and Family Issues — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) juvenile delinquency and gang violence;

(2) criminal law, prohibitions, standards, and penalties as applied to juveniles;

(3) criminal procedure in the courts of Texas as it relates to juveniles;

(4) civil law as it relates to familial relationships, including rights, duties, remedies, and procedures thereunder; and

(5) the following state agencies: the Texas Juvenile Probation Commission and the Advisory Council on Juvenile Services.

Section 25. Land and Resource Management — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) the management of public lands;

(2) the power of eminent domain;

(3) annexation, zoning, and other governmental regulation of land use; and

(4) the following state agencies: the School Land Board, the Board for Lease of University Lands, the Coastal Coordination Council, and the General Land Office.

Section 26. Law Enforcement — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) law enforcement;

(2) the prevention of crime and the apprehension of criminals;

(3) the provision of security services by private entities; and

(4) the following state agencies: the Commission on Law Enforcement Officer Standards and Education, the Department of Public Safety, the Texas Forensic Science Commission, the Polygraph Examiners Board, the Texas Private Security Board, the Commission on State Emergency Communications, and the Crime Stoppers Advisory Council.

Section 27. Licensing and Administrative Procedures — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) the oversight of businesses, industries, general trades, and occupations regulated by this state;

(2) the regulation of greyhound and horse racing and other gaming industries;

(3) regulation of the sale of intoxicating beverages and local option control;

(4) the Alcoholic Beverage Code; and

(5) the following state agencies: the Texas Department of Licensing and Regulation, the State Office of Administrative Hearings, the Texas Board of Architectural Examiners, the Texas State Board of Public Accountancy, the Texas Real Estate Commission, the Texas State Board of Plumbing Examiners, the Texas Board of Professional Engineers, the Real Estate Research Center, the Texas Board of Professional Land Surveying, the Texas Racing Commission, the Texas Appraiser Licensing and Certification Board, the Texas Lottery

Commission, the State Bar of Texas, the Board of Tax Professional Examiners, and the Texas Alcoholic Beverage Commission.

Section 28. Local and Consent Calendars (Procedural) — The committee shall have 11 members, with jurisdiction over:

(1) the placement on appropriate calendars of bills and resolutions that, in the opinion of the committee, are in fact local or will be uncontested, and have been recommended as such by the standing committee of original jurisdiction; and

(2) the determination of priorities for floor consideration of bills and resolutions except those within the jurisdiction of the Committee on Calendars.

Section 29. Local Government Ways and Means — (a) The committee shall have seven members, with jurisdiction over:

(1) all bills and resolutions proposing to permit a local government to raise revenue;

(2) all bills and resolutions proposing to permit a local government to levy or impose property taxes, sales and use taxes, or other taxes and fees;

(3) all proposals to modify, amend, or change any existing local government tax or revenue statute;

(4) all proposals to regulate the manner of collection of local government revenues and taxes; and

(5) all bills and resolutions relating to the local government provisions of the Property Tax Code, including provisions related to the appraisal of property and the levy and collection of property taxes by local governments.

(b) In this section, "local government" means a city, county, school district, special purpose district, or other political subdivision.

Section 30. Natural Resources — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) the conservation of the natural resources of Texas;

(2) the control and development of land and water and land and water resources, including the taking, storing, control, and use of all water in the state, and its appropriation and allocation;

(3) irrigation, irrigation companies, and irrigation districts, and their incorporation, management, and powers;

(4) the creation, modification, and regulation of water supply districts, water control and improvement districts, conservation and reclamation districts, and all similar organs of local government dealing with water and water supply;

(5) oversight of the Texas Commission on Environmental Quality as it relates to the regulation of water resources; and

(6) the following state agencies: the Office of Canadian River Compact Commissioner for Texas, the Office of Pecos River Compact Commissioner for Texas, the Office of Red River Compact Commissioner for Texas, the Office of Rio Grande Compact Commissioner for Texas, the Office of

Sabine River Compact Administrator for Texas, the Multi-State Water Resources Planning Commission, and the Texas Water Development Board.

Section 31. Pensions and Investments — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) benefits or participation in benefits of a public retirement system and the financial obligations of a public retirement system;

(2) the regulation of securities and investments; and

(3) the following state agencies: the Office of Fire Fighters' Pension Commissioner, the Board of Trustees of the Teacher Retirement System of Texas, the Board of Trustees of the Employees Retirement System of Texas, the Board of Trustees of the Texas County and District Retirement System, the Board of Trustees of the Texas Municipal Retirement System, the State Pension Review Board, and the State Securities Board.

Section 32. Public Education — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) the public schools and the public school system of Texas and the financing thereof;

(2) the state programming of elementary and secondary education for the public school system of Texas;

(3) proposals to create, change, or otherwise alter school districts of the state; and

(4) the following state agencies: the State Board of Education, the Texas Education Agency, the Office of Compact for Education Commissioner for Texas, the Office of Southern Regional Education Compact Commissioner for Texas, the Texas School for the Blind and Visually Impaired, the State Board for Educator Certification, and the Texas School for the Deaf.

Section 33. Public Health — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) the protection of public health, including supervision and control of the practice of medicine and dentistry and other allied health services;

(2) mental health and the development of programs incident thereto;

(3) the prevention and treatment of mental illness;

(4) oversight of the Health and Human Services Commission as it relates to the subject matter jurisdiction of this committee; and

(5) the following state agencies: the Department of State Health Services, the Anatomical Board of the State of Texas, the Texas Funeral Service Commission, the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, the Texas Optometry Board, the Radiation Advisory Board, the Texas State Board of Pharmacy, the Board of Nurse Examiners, the Texas Board of Chiropractic Examiners, the Texas Board of Physical Therapy Examiners, the Texas State Board of Podiatric Medical Examiners, the Texas State Board of Examiners of Psychologists, the State Board of Dental Examiners, the Texas Medical Board, the Advisory Board of Athletic Trainers, the Dental Hygiene Advisory Committee, the Texas Cancer Council, the Texas State Board of Acupuncture Examiners, the Health Professions Council, the

Office of Patient Protection, and the Texas Board of Occupational Therapy Examiners.

Section 34. Redistricting (Procedural) — The committee shall have 15 members, with jurisdiction over all matters pertaining to:

(1) legislative districts, both house and senate, and any changes or amendments;

(2) congressional districts, their creation, and any changes or amendments;

(3) establishing districts for the election of judicial officers or of governing bodies or representatives of political subdivisions or state agencies as required by law; and

(4) preparations for the redistricting process.

Section 35. Regulated Industries — The committee shall have nine members, with jurisdiction over all matters related to:

(1) the regulation and deregulation of electric utilities and the electric industry;

(2) the regulation and deregulation of telecommunications utilities and the telecommunications industry;

(3) the regulation of science and technology, including telecommunications, electronic technology, and automated data processing;

(4) electric utility regulation as it relates to energy production and consumption;

(5) pipelines, pipeline companies, and all others operating as common carriers in the state;

(6) the regulation and deregulation of other industries jurisdiction of which is not specifically assigned to another committee under these rules; and

(7) the following state agencies: the Public Utility Commission of Texas, the Office of Public Utility Counsel, and the Telecommunications Infrastructure Fund Board.

Section 36. Rules and Resolutions (Procedural) — The committee shall have 11 members, with jurisdiction over:

(1) Rules of Procedure of the House of Representatives, and all proposed amendments;

(2) Joint Rules of the House and Senate, and all proposed amendments;

(3) all procedures for expediting the business of the house in an orderly and efficient manner;

(4) all resolutions to congratulate, memorialize, or name mascots of the house; and

(5) other matters concerning rules, procedures, and operation of the house assigned by the speaker.

Section 37. State Affairs — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) questions and matters of state policy;

(2) the administration of state government;

(3) the organization, powers, regulation, and management of state departments and agencies;

(4) the operation and regulation of public lands and state buildings;

(5) the organization, regulation, operation, and management of state institutions;

(6) the duties and conduct of officers and employees of the state government;

(7) the regulation of the residential construction industry;

(8) the operation of state government and its agencies and departments; all of above except where jurisdiction is specifically granted to some other standing committee;

(9) access of the state agencies to scientific and technological information; and

(10) the following state agencies: the Council of State Governments, the National Conference of State Legislatures, the Governor's Office, the Texas Building and Procurement Commission, the Department of Information Resources, the Inaugural Endowment Fund Committee, and the Texas Residential Construction Commission.

Section 38. Transportation — The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) commercial motor vehicles, both bus and truck, and their control, regulation, licensing, and operation;

(2) the Texas highway system, including all roads, bridges, and ferries constituting a part of the system;

(3) the licensing of private passenger vehicles to operate on the roads and highways of the state;

(4) the regulation and control of traffic on the public highways of the State of Texas;

(5) railroads, street railway lines, interurban railway lines, steamship companies, and express companies;

(6) airports, air traffic, airlines, and other organizations engaged in transportation by means of aerial flight;

(7) water transportation in the State of Texas, and the rivers, harbors, and related facilities used in water transportation and the agencies of government exercising supervision and control thereover;

(8) the regulation of metropolitan transit; and

(9) the following state agencies: the Texas Department of Transportation and the Texas Transportation Commission.

Section 39. Urban Affairs — The committee shall have seven members, with jurisdiction over all matters pertaining to:

(1) cities, municipalities, and town corporations, including their creation, organization, powers, government, and finance, and the compensation and duties of their officers and employees;

(2) home-rule cities, their relationship to the state, and their powers, authority, and limitations;

(3) the creation or change of metropolitan areas and the form of government under which those areas operate;

(4) problems and issues particularly affecting metropolitan areas of the state;

(5) other units of local government not otherwise assigned by these rules to other standing committees;

(6) establishing districts for the election of governing bodies of cities; and

(7) the following state agencies: the Texas Department of Housing and Community Affairs and the Texas Commission on Fire Protection.

Section 40. Ways and Means — The committee shall have nine members, with jurisdiction over:

(1) all bills and resolutions proposing to raise state revenue;

(2) all bills or resolutions proposing to levy state taxes or other fees;

(3) all proposals to modify, amend, or change any existing state tax or revenue statute;

(4) all proposals to regulate the manner of collection of state revenues and taxes;

(5) all bills and resolutions containing provisions resulting in automatic allocation of funds from the state treasury;

(6) all bills and resolutions diverting funds from the state treasury or preventing funds from going in that otherwise would be placed in the state treasury;

(7) all bills and resolutions relating to the Tax Code; and

(8) the following state agencies: the Office of Multistate Tax Compact Commissioner for Texas and the State Comptroller of Public Accounts.

Rule 4. Organization, Powers, and Duties of Committees

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RULE 4
Organization, Powers, and Duties of Committees

Chapter A. Organization

Section 1. Committees, Membership, and Jurisdiction — Standing committees of the house, and the number of members and general jurisdiction of each, shall be as enumerated in Rule 3.

Section 2. Determination of Membership — (a) Membership on the standing committees shall be determined at the beginning of each regular session in the following manner:

(1) For each standing substantive committee, except the Committee on Appropriations, a maximum of one-half of the membership, exclusive of the chair and vice-chair, shall be determined by seniority. The remaining membership of the committee shall be appointed by the speaker.

(2) Each member of the house, in order of seniority, may designate three committees on which he or she desires to serve, listed in order of preference. The member is entitled to become a member of the committee of his or her highest preference on which there remains a vacant seniority position. A member who desires to be designated the chair for budget and oversight of a substantive committee may indicate that preference, but seniority does not entitle the member to that designation.

(3) If members of equal seniority request the same committee, the speaker shall appoint the member from among those requesting that committee. Seniority, as the term is used in this subsection, shall mean years of cumulative service as a member of the house of representatives.

(4) After each member of the house has selected one committee on the basis of seniority, the remaining membership on each standing committee shall be filled by appointment of the speaker, subject to the limitations imposed in this chapter.

(5) Seniority shall not apply to a procedural committee. For purposes of these rules, the procedural committees are the Committee on Calendars, the Committee on Local and Consent Calendars, the Committee on Rules and Resolutions, the General Investigating and Ethics Committee, the Committee on House Administration, and the Committee on Redistricting. The entire membership of these committees shall be appointed by the speaker.

(6) Seniority shall not apply to the Committee on Appropriations, which shall be composed of:

(A) a chair and vice-chair appointed by the speaker; and

(B) the chair for budget and oversight from each of the 27 committees for which there is a chair for budget and oversight.

(7) In announcing the membership of committees, the speaker shall designate those appointed by the speaker and those acquiring membership by seniority.

(8) The speaker shall designate the chair and vice-chair from the total membership of the committee. For 27 substantive committees determined by the speaker, the speaker shall designate a chair for budget and oversight from the total membership of the committee.

(b) In the event of an election contest that is not resolved prior to the determination of the membership of standing committees, the representative of the district that is the subject of the contest is not entitled to select a committee on the basis of seniority. Committee appointments on behalf of that district shall be designated by the district number.

(c) In the event of a vacancy in a representative district that has not been filled at the time of the determination of the membership of standing committees, the representative of the district who fills that vacancy shall not be entitled to select a committee on the basis of seniority. Committee appointments on behalf of that district shall be designated by the district number.

(d) In the event that a member-elect of the current legislature has not taken the oath of office by the end of the ninth day of the regular session, the representative of that district shall not be entitled to select a committee on the basis of seniority. If the member-elect has not taken the oath of office by the time committee appointments are announced, committee appointments on behalf of that district shall be designated by district number.

Section 3. Ranking of Committee Members — Except for the chair and vice-chair, members of a standing committee shall rank according to their seniority.

Section 4. Membership Restrictions — No member shall serve concurrently on more than two standing substantive committees.

Section 5. Vacancies on Committees — Should a vacancy occur on a standing, select, or interim committee subsequent to its organization, the speaker shall appoint an eligible member to fill the vacancy.

Section 6. Duties of the Chair — The chair of each committee shall:

(1) be responsible for the effective conduct of the business of the committee;

(2) appoint all subcommittees and determine the number of members to serve on each subcommittee;

(3) in consultation with members of the committee, schedule the work of the committee and determine the order in which the committee shall consider and act on bills, resolutions, and other matters referred to the committee;

(4) have authority to employ and discharge the staff and employees authorized for the committee and have supervision and control over all the staff and employees;

(5) direct the preparation of all committee reports. No committee report shall be official until signed by the chair of the committee, or by the person acting as chair, or by a majority of the membership of the committee;

(6) determine the necessity for public hearings, schedule hearings, and be responsible for directing the posting of notice of hearings as required by the rules;

(7) preside at all meetings of the committee and control its deliberations and activities in accordance with acceptable parliamentary procedure; and

(8) have authority to direct the sergeant-at-arms to assist, where necessary, in enforcing the will of the committee.

Section 7. Bill Analyses — Except for the general appropriations bill, for each bill or joint resolution referred to the committee, the staff of the committee shall be responsible for distributing a copy of a bill analysis to each member of the committee at the earliest possible opportunity but not later than the first time the measure is laid out in a committee meeting.

Chapter B. Procedure

Section 8. Meetings — (a) As soon as practicable after standing committees are constituted and organized, the committee coordinator, under the direction of the Committee on House Administration, shall prepare a schedule for regular meetings of all standing committees. This schedule shall be published in the house journal and posted in a convenient and conspicuous place near the entrance to the house and on other posting boards for committee meeting notices, as determined necessary by the Committee on House Administration. To the extent practicable during each regular session, standing committees shall conduct regular committee meetings in accordance with the schedule of meetings prepared by the committee coordinator under the supervision of the Committee on House Administration.

(b) Standing committees shall meet at other times as may be determined by the committee, or as may be called by the chair. Subcommittees of standing committees shall likewise meet at other times as may be determined by the committee, or as may be called by the chair of the committee or subcommittee.

(c) Committees shall also meet in such places and at such times as the speaker may designate.

Section 9. Meeting While House in Session — No standing committee or subcommittee shall meet during the time the house is in session without permission being given by a majority vote of the house. No standing committee or subcommittee shall conduct its meeting on the floor of the house or in the house chamber while the house is in session, but shall, if given permission to meet while the house is in session, retire to a designated committee room for the conduct of its meeting.

HOUSE PRECEDENTS

MOTION TO GRANT PERMISSION FOR COMMITTEE TO MEET WHILE HOUSE IN SESSION IS DEBATABLE. — In the 56th Legislature the speaker, Mr. Carr, ruled that a motion to grant such permission was debatable and subject to the three minute pro and con debate rule.

Section 10. Purposes for Meeting — A committee or a subcommittee may be assembled for:

(1) a public hearing where testimony is to be heard, and where official action may be taken, on bills, resolutions, or other matters;

(2) a formal meeting where the committee may discuss and take official action on bills, resolutions, or other matters without testimony; and

(3) a work session where the committee may discuss bills, resolutions, or other matters but take no formal action.

EXPLANATORY NOTES

Current house practice has been to permit committees to hear testimony from a "resource witness" at either a public hearing or a formal meeting. A resource witness is a person who is employed by an agency of the legislative branch of government (the Texas House of Representatives, the Texas Senate, the Legislative Budget Board, the Texas Legislative Council, the Sunset Advisory Commission, the State Auditor's Office, etc.) or, in very limited circumstances, by an agency of the executive branch of government, such as the Office of the Comptroller, when providing a committee with technical information on the operation of the state budget. A resource witness may provide the committee with background information or technical information on a particular bill or resolution but may not testify for or against the measure. A resource witness as defined above is not required to execute the sworn statement that is required under Section 20 of this rule, nor is a resource witness required to be listed in the committee minutes or in the summary of committee action on the bill analysis.

Many times, persons representing an association or executive branch agency will appear before a committee to testify "on" a particular measure. Such persons often refer to themselves as "resource witnesses" because they are not taking a position for or against the measure. For purposes of the rules, however, these persons are considered to be witnesses who must complete a witness affirmation form, be listed in the committee minutes and the summary of committee action on the bill analysis, and who cannot testify unless the committee is convened in a public hearing.

See Sec. 23A of this rule.

Section 11. Posting Notice — (a) No committee or subcommittee, including a calendars committee, shall assemble for the purpose of a public hearing during a regular session unless notice of the hearing has been posted in accordance with the rules at least five calendar days in advance of the hearing. No committee or subcommittee, including a calendars committee, shall assemble for the purpose of a public hearing during a special session unless notice of the hearing has been posted in accordance with the rules at least 24 hours in advance of the hearing. The committee minutes shall reflect the date of each posting of notice. Notice shall not be required for a public hearing on a senate bill which is substantially the same as a house bill that has previously been the subject of a duly posted public hearing by the committee.

(b) No committee or subcommittee, including a calendars committee, shall assemble for the purpose of a formal meeting or work session during a regular or special session unless written notice has been posted and transmitted to each member of the committee two hours in advance of the meeting or an announcement has been filed with the journal clerk and read by the reading clerk while the house is in session.

(c) All committees meeting during the interim for the purpose of a formal meeting, work session, or public hearing shall post notice in accordance with the rules and notify members of the committee at least five calendar days in advance of the meeting.

EXPLANATORY NOTES

1. Notices of public hearings are conspicuously posted in areas designated by the Committee on House Administration.
2. See Sec. 6(6) of this rule, concerning the chair's responsibility for directing the posting of notice.
3. If it becomes necessary to postpone, reschedule, relocate, or cancel a committee meeting, current practice is for the chair or staff of the committee to notify the committee coordinator, so that the official posting can be updated and a notice of that fact can be posted at the entrance to the meeting room. If the house is in session when it becomes necessary to postpone, reschedule, relocate, or cancel a committee meeting, the chair should also file an announcement with the journal clerk to be read by the reading clerk while the house is in session.

Section 12. Meetings Open to the Public — All meetings of a committee or subcommittee, including a calendars committee, shall be open to other members, the press, and the public unless specifically provided otherwise by resolution adopted by the house. However, the General Investigating and Ethics Committee or a committee considering an impeachment, an address, the punishment of a member of the house, or any other matter of a quasi-judicial nature may meet in executive session for the limited purpose of examining a witness or deliberating, considering, or debating a decision, but no decision may be made or voted on except in a meeting that is open to the public and otherwise in compliance with the rules of the house.

HOUSE PRECEDENTS

PUBLIC HEARING NOT A PREREQUISITE TO REPORTING BY A COMMITTEE OR CONSIDERATION BY THE HOUSE. — The speaker laid before the house on second reading H.B. 40, and the caption was read. Mr. Cato raised a point of order on further consideration of the bill on the ground that a "public hearing" had not been held before the bill was reported by the committee. The speaker, Mr. Gilmer, overruled the point of order (49 H.J. Reg. 277 (1945)).

This point of order is raised frequently and arises through a misunderstanding of Secs. 10-12 of this rule. Sec. 12 provides that every committee meeting shall be open to the public. Anyone may attend committee meetings. Committees, however, have control of their business, and there is nothing in the rules which requires committees to hold "public hearings" in the accepted meaning of the term, i.e., where numbers of persons appear to argue both sides of a question. Public hearings should be and almost always are held on bills of outstanding importance. If a committee elects to hold a "public hearing," then it must set the bill and post the proper notice. It is these two steps which characterize the "public hearing" as differentiated from the ordinary committee meeting.

Section 13. Rules Governing Operations — (a) The Rules of Procedure of the House of Representatives, and to the extent applicable, the rules of evidence and procedure in the civil courts of Texas, shall govern the hearings and operations of each committee, including a calendars committee. Subject to the foregoing, and to the extent necessary for orderly transaction of business, each committee may promulgate and adopt additional rules and procedures by which it will function.

(b) No standing committee, including a calendars committee, or any subcommittee, shall adopt any rule of procedure, including but not limited to an automatic subcommittee rule, which will have the effect of thwarting the will of the majority of the committee or subcommittee or denying the committee or subcommittee the right to ultimately dispose of any pending matter by action of a majority of the committee or subcommittee. A bill or resolution may not be laid on the table subject to call in committee without a majority vote of the committee.

Section 14. Appeals From Rulings of the Chair — Appeals from rulings of the chair of a committee shall be in order if seconded by three members of the committee, which may include the member making the appeal. Procedure in committee following an appeal which has been seconded shall be the same as the procedure followed in the house in a similar situation.

HOUSE PRECEDENTS

1. POINTS OF ORDER ON COMMITTEE PROCEDURE. — In the 51st Legislature, the speaker, Mr. Manford, held that a point of order in the house against the consideration of a bill because of some parliamentary error in committee or an erroneous ruling of a committee chairman during its consideration, is not good provided the bill was eventually voted out favorably (or unfavorably) in conformity with the rules. Full protection against such errors or rulings in committee is provided under the rules of the house. Failure to take advantage of such protection in a committee is no reason to prejudice consideration of the bill or other measure on the floor of the house.

2. ERRONEOUS RULINGS BY COMMITTEE CHAIRS ARE INSUFFICIENT GROUNDS FOR SENDING BILLS BACK TO COMMITTEES ON POINTS OF ORDER, PROVIDED REPORTS ARE MADE IN ACCORDANCE WITH THE RULES. — H.B. 236 was laid before the house. Mr. Pearson raised a point of order on further consideration because the bill was not "properly and legally" voted out of the committee. He contended that the chairman of the committee had made certain erroneous rulings, but agreed that the bill had finally received a majority vote for favorable report and that a quorum was present. The speaker, Mr. Reed, in overruling the point of order, held that the stated grounds were insufficient to send the bill back to committee, particularly in view of the fact that committee members have recourse to appeals from the rulings of committee chairmen, and that the committee minutes failed to show any protest or appeal (50 H.J. Reg. 1750 (1947)).

Section 15. Previous Question — Before the previous question can be ordered in a committee, the motion therefor must be seconded by not less than 4 members of a committee consisting of 21 or more members, 3 members of a committee consisting of less than 21 members and more than 10 members, or 2 members of a committee consisting of 10 members or less. If the motion is properly seconded and ordered by a majority vote of the committee, further debate on the proposition under consideration shall be terminated, and the proposition shall be immediately put to a vote of the committee for its action.

Section 16. Quorum — A majority of a committee shall constitute a quorum. No action or recommendation of a committee shall be valid unless taken at a meeting of the committee with a quorum actually present, and the committee minutes shall reflect the names of those members of the committee who were actually present. No committee report shall be made to the house nor shall bills or resolutions be placed on a calendar unless ordered by a majority of the membership of the committee, except as otherwise provided in the rules, and a quorum of the committee must be present when the vote is taken on reporting a bill or resolution, on placing bills or resolutions on a calendar, or on taking any other formal action within the authority of the committee. No committee report shall be made nor shall bills or resolutions be placed on a calendar except by record vote of the members of the committee, with the yeas and nays to be recorded in the minutes of the committee. Proxies cannot be used in committees.

HOUSE PRECEDENTS

1. NOT IN ORDER TO CIRCUMVENT COMMITTEE ACTION BY SUSPENSION OF THE RULES. — The speaker laid S.B. No. 235 before the house, and Mr. Mangum raised a point of order that the bill had not been reported properly from the committee, the minutes showing that a quorum was not present at the time. The speaker, Mr. Reed, called for and examined the minutes and then sustained the point of order. Mr. Miller moved to suspend all rules for the purpose of considering the bill at this time. A point of order by Mr. Mangum against such procedure was sustained by the speaker, who held that to allow it would set a precedent whereby the constitutional requirement for committee consideration would be abrogated (50 H.J. Reg. 2732 (1947)).

2. VALID COMMITTEE REPORT NECESSARY UNDER THE CONSTITUTION. — During the consideration of H.B. 33, a point of order was raised that the minutes of the committee reporting the bill showed that in fact a quorum was not present at the time the bill was reported. Mr. McAllister then moved to suspend the house rule requiring the presence of a quorum of a committee at the time of reporting a bill, resolution or other measure. Mr. Bell of DeWitt raised the point of order against such a motion on the ground that Sec. 37 of Art. 3 of the constitution requires a valid committee report. The speaker, Mr. Gilmer, sustained the point of order and ordered the bill returned to the committee for further consideration, pointing out that to do otherwise would render meaningless the constitutional requirement of committee consideration and report (49 H.J. Reg. 1714 (1945)).

CONGRESSIONAL PRECEDENTS

QUORUM REQUIRED FOR COMMITTEE ACTION. — Action of a committee is valid only when taken at a formal meeting of the committee actually assembled (8 C.P. 2209). Action of a committee is recognized by the house only when taken with a quorum actually assembled and meeting (8 C.P. 2211). Action taken by a committee in the absence of a quorum was held to be invalid when reported to the house (8 C.P. 2212).

Section 17. Moving a Call of a Committee — (a) It shall be in order to move a call of a committee at any time to secure and maintain a quorum for any one or more of the following purposes:

(1) for the consideration of a specific bill, resolution, or other matter;

(2) for a definite period of time; or

(3) for the consideration of any designated class of bills or other matters.

(b) When a call of a committee is moved for one or more of the foregoing purposes and seconded by two members, one of whom may be the chair, and is ordered by a majority of the members present, no member shall thereafter be permitted to leave the committee meeting without written permission from the chair. After the call is ordered, and in the absence of a quorum, the chair shall have the authority to authorize the sergeant-at-arms to locate absent members of the committee and to compel their attendance for the duration of the call.

Section 18. Minutes of Proceedings — (a) For each committee, including a calendars committee, the chair, or the member acting as chair, shall keep complete minutes of the proceedings in committee, which shall include:

(1) the time and place of each meeting of the committee;

(2) a roll call to determine the members present at each meeting of the committee, whether that meeting follows an adjournment or a recess from a previous committee meeting;

(3) an accurate record of all votes taken, including a listing of the yeas and nays cast on a record vote;

(4) the date of posting of notice of the meeting; and

(5) other information that the chair shall determine.

(b) The minutes for each public hearing of a committee shall also include an attachment listing the names of the persons, other than members of the legislature, and the persons or entities represented by those persons, who were recognized by the chair to address the committee or who signed a sworn statement in favor of, in opposition to, or without taking a position on a measure or other matter before the committee. The attachment shall also list the name of each person, other than a member of the legislature, who submitted to the committee a sworn statement indicating that the person was present in favor of, in opposition to, or without taking a position on the measure or other matter, but who because of the person's departure or other reason was not recognized by the chair to address the committee; provided that the omission of the name of such a person is not a sustainable question of order.

(c) Committee minutes shall be corrected only at the direction of the chair as authorized by a majority vote of the committee. Duplicate originals of committee minutes shall be maintained, one to remain with the committee chair and the other to be filed with the committee coordinator. The committee minutes of a meeting of the Appropriations Committee on the general appropriations bill must be filed with the committee coordinator within five days of the committee meeting. All other committee minutes must be filed with the committee coordinator within three days of the committee meeting for a substantive committee, and within one day of the committee meeting for a procedural committee. If the date on which the committee minutes are due occurs on a Saturday, Sunday, or holiday on which the house is not in session, the committee minutes shall be filed on the following working day. The time at which the minutes are filed shall be time-stamped on the duplicate originals of the minutes that are filed with the committee coordinator. The duplicate originals shall be available at all reasonable business hours for inspection by members or the public.

(d) The committee coordinator shall maintain the minutes and records safe from loss, destruction, and alteration at all times, and may, at any time, turn them, or any portion, over to the Committee on House Administration.

Section 19. Recording of Testimony — All testimony before committees and subcommittees shall be electronically recorded under the direction of the Committee on House Administration. Copies of the testimony may be released under guidelines promulgated by the Committee on House Administration.

Section 20. Sworn Statement of Witnesses — (a) The committee coordinator, under the direction of the Committee on House Administration, shall prescribe the form of a sworn statement to be executed by all persons, other than members, who wish to be recognized by the chair to address the committee. The statement shall provide for showing at least:

(1) the committee or subcommittee;

(2) the name, address, and telephone number of the person appearing;

(3) the person, firm, corporation, class, or group represented;

(4) the type of business, profession, or occupation in which the person is engaged, if the person is representing himself or herself; and

(5) the matter before the committee on which the person wishes to be recognized to address the committee and whether for, against, or neutral on the matter.

(b) No person shall be recognized by the chair to address the committee in favor of, in opposition to, or without taking a position on a matter until the sworn statement has been filed with the chair of the committee. The chair of the committee shall indicate on the sworn statement whether the person completing the statement was recognized to address the committee.

(c) All sworn statements for those persons recognized by the chair to address the committee shall accompany the copy of the minutes of the meeting filed with the committee coordinator.

(d) All persons, other than members, recognized by the chair to address the committee shall give their testimony under oath, and each committee may avail itself of additional powers and prerogatives authorized by law.

(e) The committee shall ensure that an individual who is blind receives any necessary assistance in executing the sworn statement.

(f) The committee shall inform a witness who is blind which members of the committee are present when the witness begins to testify and shall inform the witness during the testimony of the departure and arrival of committee members.

EXPLANATORY NOTES

1. See Section 301.011 et seq., Government Code.
2. For matters relating to additional powers of committees, see Chapter 301, Government Code.

Section 21. Power to Issue Process and Summon Witnesses — (a) By a record vote of not less than two-thirds of those present and voting, a quorum being present, each standing committee shall have the power and authority to issue process to witnesses at any place in the State of Texas, to compel their attendance, and to compel the production of all books, records, and instruments. If necessary to obtain compliance with subpoenas or other process, the committee shall have the power to issue writs of attachment. All process issued by the committee may be addressed to and served by an agent of the committee or a sergeant-at-arms appointed by the committee or by any peace officer of the State of Texas. The committee shall also have the power to cite and have prosecuted for contempt, in the manner provided by law, anyone disobeying the subpoenas or other process lawfully issued by the committee. The chair of the committee shall issue, in the name of the committee, the subpoenas and other process as the committee may direct.

(b) The chair may summon the governing board or other representatives of a state agency to appear and testify before the committee without issuing process under Subsection (a) of this section. The summons may be communicated in writing, orally, or electronically. If the persons summoned fail or refuse to appear, the committee may issue process under Subsection (a) of this section.

Section 22. Mileage and Per Diem for Witnesses — Subject to prior approval by the Committee on House Administration, witnesses attending proceedings of any committee under process of the committee shall be allowed the same mileage and per diem as are allowed members of the committee when in a travel status, to be paid out of the contingent expense fund of the house of representatives on vouchers approved by the chair of the committee, the chair of the Committee on House Administration, and the speaker of the house.

Section 23. Power to Request Assistance of State Agencies — Each committee is authorized to request the assistance, when needed, of all state departments, agencies, and offices, and it shall be the duty of the departments, agencies, and offices to assist the committee when requested to do so. Each committee shall have the power and authority to inspect the records, documents,

and files of every state department, agency, and office, to the extent necessary to the discharge of its duties within the area of its jurisdiction.

Section 23A. Assistance of Other House Members — At a meeting of a committee, the chair may recognize a member of the house who is not a member of the committee to provide information to the committee. Recognition is solely within the discretion of the chair and is not subject to appeal by that member.

EXPLANATORY NOTES

Section 23A allows, but does not require, the chair of a committee to recognize a member in any meeting described by Sec. 10 of this rule if, in the chair's opinion, the member will provide information that may be useful to the committee. The rule also preserves the chair's well-established power of recognition by providing that denial of a recognition is not appealable.

Chapter C. Committee Functions

Section 24. Interim Studies — Standing committees, en banc or by subcommittees, are hereby authorized to conduct studies that are authorized by the speaker pursuant to Rule 1, Section 17. Studies may not be authorized by resolution. The speaker may appoint public citizens and officials of state and local governments to standing committees to augment the membership for the purpose of interim studies and shall provide a list of such appointments to the chief clerk. The chair of the standing committee shall have authority to name the subcommittees necessary and desirable for the conduct of the interim studies and shall also prepare a budget for interim studies for approval by the Committee on House Administration.

Section 25. Motion Preventing Reporting or Placement on a Calendar — No motion is in order in a committee considering a bill, resolution, or other matter that would prevent the committee from reporting it back to the house or placing it on a calendar in accordance with the Rules of the House.

EXPLANATORY NOTES

For example, motions to tag a bill, table a bill, postpone consideration of it indefinitely, and to postpone consideration of it beyond the time allowed are all out of order and should be ruled out by the chairman.

Section 26. Final Action in Form of Report — No action by a committee on bills or resolutions referred to it shall be considered as final unless it is in the form of a favorable report, an unfavorable report, or a report of inability to recommend a course of action.

Section 27. Vote on Motion to Report — Motions made in committee to report favorably or unfavorably must receive affirmative majority votes, majority negative votes to either motion being insufficient to report. If a committee is unable to agree on a recommendation for action, as in the case of a tie vote, it should submit a statement of this fact as its report, and the house shall decide, by a majority vote, the disposition of the matter by one of the following alternatives:

(1) leave the bill in the committee for further consideration;
(2) refer the bill to some other committee; or
(3) order the bill printed, in which case the bill shall go to the Committee on Calendars for placement on a calendar and for proposal of an appropriate rule for house consideration.

CONGRESSIONAL PRECEDENTS

COMMITTEE UNABLE TO AGREE. — A committee being unable to agree on a recommendation for action may submit a statement of this fact as its report (4 H.P. 4665, 4666). Instance wherein a committee being equally divided, reported its inability to present a proposition for action (1 H.P. 347).

Section 28. Minority Reports — The report of a minority of a committee shall be made in the same general form as a majority report. No minority report shall be recognized by the house unless it has been signed by not less than 4 members of a committee consisting of 21 or more members, 3 members of a committee consisting of less than 21 members and more than 10 members, or 2 members of a committee consisting of 10 or less members. Only members who were present when the vote was taken on the bill, resolution, or other matter being reported, and who voted on the losing side, may sign a minority report. Notice of intention to file a minority report shall be given to the assembled committee after the vote on the bill, resolution, or other matter, and before the recess or adjournment of the committee, provided ample opportunity is afforded for the giving of notice; otherwise, notice may be given in writing to the chief clerk within 24 hours after the recess or adjournment of the committee.

EXPLANATORY NOTES

To be official, a minority report must be signed by the chair, vice-chair, or first named member, whichever presided, and the required minority, as described above. The reports are attached to the bill or resolution to which they relate.

Section 29. Action on Bills Reported Unfavorably — If the majority report on a bill is unfavorable, and a favorable minority report is not signed in accordance with Section 28 of this rule and filed with the chief clerk within two calendar days, exclusive of Sunday and the date of committee action, the chief clerk shall file the bill away as dead; except during the last 15 calendar days of a regular session, or the last 7 calendar days of a special session, when the chief clerk shall hold a bill only one calendar day, exclusive of Sunday and the date of committee action, awaiting the filing of a minority report before the bill is filed away as dead. If the favorable minority report is properly signed and filed, the chief clerk shall hold the bill for five legislative days, exclusive of the legislative day in which the minority report was filed, awaiting adoption by the house of a motion to print the bill on minority report. If the motion to print is carried, the bill shall be printed as if it had been reported favorably, and shall then be immediately forwarded to the Committee on Calendars for placement on a calendar and for proposal of an appropriate rule for house consideration. If a motion to print a bill on minority report is not made within the five legislative

days authorized above, the chief clerk shall file the bill away as dead. It shall not be in order to move to recommit a bill adversely reported with no minority report, except as provided in Section 30 of this rule. A two-thirds vote of the house shall be required to print on minority report a joint resolution proposing an amendment to the Constitution of Texas.

EXPLANATORY NOTES

The chief clerk transmits one copy of a minority report to the journal clerk when received.

HOUSE PRECEDENTS

1. PRINTING ON MINORITY REPORT. — In the regular session of the 45th Legislature the house ordered a bill printed on minority report. The minority report contained amendments which constituted a new bill, and, upon the suggestion of the speaker, Mr. Calvert, the house ordered the amendments printed along with the original bill.

2. MOTION TO RECOMMIT AS SUBSTITUTE FOR MOTION TO PRINT ON MINORITY REPORT. — In the 55th Legislature, regular session, Speaker Waggoner Carr ruled that a motion to recommit a bill was an acceptable substitute for a motion to print a bill on minority report, which motion had been made at a routine motion period. He held further that the substitute motion was undebatable under the general rule that at routine motion periods three-minute pro and con debate is allowed only on an original motion (55 H.J. Reg. 761 (1957)).

Section 30. Making Adverse Reports Without Hearing the Author — No adverse report shall be made on any bill or resolution by any committee without first giving the author or sponsor of the bill an opportunity to be heard. If it becomes evident to the house that a bill has been reported adversely without the author or sponsor having had an opportunity to be heard as provided in this section, the house may, by a majority vote, order the bill recommitted even though no minority report was filed in the manner prescribed by the rules. This provision shall have precedence over Rule 7, Section 20.

Section 31. Adverse Reports on Local Bills — If a local bill is reported adversely, it shall be subject to the same rules that govern other bills reported adversely.

Section 32. Form of Reports — (a) Reports of standing committees on bills and resolutions shall be made in duplicate, with one copy to be filed with the journal clerk for printing in the journal and the other to accompany the original bill.

(b) All committee reports must be in writing and shall:

(1) be signed by the chair, or the member acting as chair, or a majority of the membership of the committee;

(2) be addressed to the speaker;

(3) contain a statement of the recommendations of the committee with reference to the matter which is the subject of the report;

(4) contain the date the committee made its recommendation;

(5) indicate whether a copy of a bill or resolution was forwarded to

the Legislative Budget Board for preparation of a fiscal note or other impact statement, if applicable;

(6) contain the record vote by which the report was adopted, including the vote of each member of the committee;

(7) contain the recommendation that the bill or resolution be sent to the Committee on Local and Consent Calendars for placement on the local, consent, and resolutions calendar if applicable;

(8) state the name of the primary house sponsor of all senate bills and resolutions and indicate the names of all joint sponsors or cosponsors;

(9) include a summary of the committee hearing on the bill or resolution; and

(10) include a list of the names of the persons, other than members of the legislature, and persons or entities represented by those persons, who were recognized by the chair to address the committee in favor of, in opposition to, or without taking a position on the bill or resolution.

(c) Except for the general appropriations bill, each committee report on a bill or joint resolution, including a complete committee substitute, and, to the extent considered necessary by the committee, a committee report on any other resolution, must include in summary or section-by-section form a detailed analysis of the subject matter of the bill or resolution, specifically including:

(1) background information on the proposal and information on what the bill or resolution proposes to do;

(2) an analysis of the content of the bill or resolution;

(3) a statement indicating whether or not any rulemaking authority is expressly delegated to a state officer, department, agency, or institution, and, if so, identifying the sections of the measure in which that rulemaking authority is delegated;

(4) a statement of substantial differences between a complete committee substitute and the original bill; and

(5) a brief explanation of each amendment adopted by the committee.

(d) It shall be the duty of the committee chair, on all matters reported by the committee, to see that all provisions of Rule 12 are satisfied. The chair shall strictly construe this provision to achieve the desired purposes.

EXPLANATORY NOTES

See Rule 6, Sec. 23, for the qualifications for placement of a bill on a local, consent, or resolutions calendar.

HOUSE PRECEDENTS

STATEMENT OF SUBSTANTIAL DIFFERENCES BETWEEN COMPLETE COMMITTEE SUBSTITUTE AND ORIGINAL BILL NOT ADEQUATE. — The speaker, Mr. Craddick, sustained a point of order that the committee report analysis of H.B. 846 did not accurately describe the substantial changes in the committee substitute as compared to the introduced bill. The speaker held that the failure of the analysis to comply with the house rule rendered it misleading. (79 H.J. Reg. 2935 (2005)).

Section 33. Fiscal Notes — (a) If the chair of a standing committee determines that a bill or joint resolution, other than the general appropriations bill, authorizes or requires the expenditure or diversion of state funds for any purpose, the chair shall send a copy of the measure to the Legislative Budget Board for the preparation of a fiscal note outlining the fiscal implications and probable cost of the measure.

(b) If the chair of a standing committee determines that a bill or joint resolution has statewide impact on units of local government of the same type or class and authorizes or requires the expenditure or diversion of local funds, or creates or impacts a local tax, fee, license charge, or penalty, the chair shall send a copy of the measure to the Legislative Budget Board for the preparation of a fiscal note outlining the fiscal implications and probable cost of the measure.

(c) In preparing a fiscal note, the director of the Legislative Budget Board may utilize information or data supplied by any person, agency, organization, or governmental unit that the director deems reliable. If the director determines that the fiscal implications of the measure cannot be ascertained, the director shall so state in the fiscal note, in which case the fiscal note shall be in full compliance with the rules. If the director of the Legislative Budget Board is unable to acquire or develop sufficient information to prepare the fiscal note within 15 days of receiving the measure from the chair of a committee, the director shall so state in the fiscal note, in which case the note shall be in full compliance with the rules.

(d) If the chair determines that a fiscal note is required, copies of the fiscal note must be distributed to the members of the committee not later than the first time the measure is laid out in a committee meeting. The fiscal note shall be attached to the measure on first printing. If the measure is amended by the committee so as to alter its fiscal implications, the chair shall obtain an updated fiscal note, which shall also be attached to the measure on first printing.

(e) All fiscal notes shall remain with the measure throughout the entire legislative process, including submission to the governor.

EXPLANATORY NOTES

It is current practice that a senate fiscal note may be used by a house committee for a senate measure if the measure has not been amended since the preparation of that fiscal note. If the measure has been amended since the senate fiscal note was prepared, the chair of the house committee should request a new fiscal note from the Legislative Budget Board. This practice does not preclude the chair of a house committee from requesting a new fiscal note on any senate measure referred to the committee.

Section 34. Other Impact Statements — (a) It is the intent of this section that all members of the house are timely informed as to the impact of proposed legislation on the state or other unit of government.

(b) If the chair of a standing committee determines that a bill or joint resolution:

(1) authorizes or requires a change in the sanctions applicable to adults convicted of felony crimes, the chair shall send a copy of the measure

to the Legislative Budget Board for the preparation of a criminal justice policy impact statement;

(2) authorizes or requires a change in the public school finance system, the chair shall send a copy of the measure to the Legislative Budget Board for the preparation of an equalized education funding impact statement;

(3) proposes to change benefits or participation in benefits of a public retirement system or change the financial obligations of a public retirement system, the chair shall send a copy of the measure to the Legislative Budget Board for the preparation of an actuarial impact statement in cooperation with the State Pension Review Board;

(4) proposes to create a water district under the authority of Article XVI, Section 59, of the Texas Constitution, the chair shall send a copy of the measure to the Legislative Budget Board for the preparation of a water development policy impact statement; or

(5) creates or impacts a state tax or fee, the chair shall send a copy of the measure to the Legislative Budget Board for the preparation of a tax equity note that estimates the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

(c) In preparing an impact statement, the director of the Legislative Budget Board may utilize information or data supplied by any person, agency, organization, or governmental unit that the director deems reliable. If the director determines that the particular implications of the measure cannot be ascertained, the director shall so state in the impact statement, in which case the impact statement shall be in full compliance with the rules.

(d) An impact statement is not required to be present before a measure is laid out in a committee meeting. If timely received, the impact statement shall be attached to the measure on first printing. If the measure is amended by the committee so as to alter its particular implications, the chair shall obtain an updated impact statement. If timely received, the updated impact statement shall also be attached to the measure on first printing.

(e) An impact statement that is received after the first printing of a measure has been distributed to the members shall be forwarded by the chair of the committee to the committee coordinator. The committee coordinator shall have the impact statement printed and distributed to the members.

(f) All impact statements received shall remain with the measure throughout the entire legislative process, including submission to the governor.

Section 35. Reports on House and Concurrent Resolutions — Committee reports on house and concurrent resolutions shall be made in the same manner and shall follow the same procedure as provided for bills, subject to any differences otherwise authorized or directed by the rules.

Section 36. Action by House on Reports Not Required — No action by the house is necessary on the report of a standing committee. The bill, resolution, or proposition recommended or reported by the committee shall automatically be before the house for its consideration after the bill or resolution has been referred to the appropriate calendars committee for placement on a calendar and for proposal of an appropriate rule for house consideration.

Section 37. Referral of Reports to Committee Coordinator — All committee reports on bills or resolutions shall be immediately referred to the committee coordinator. The chair of the committee shall be responsible for delivery of the report to the committee coordinator.

Section 38. Delivery of Reports to Calendars Committees — After printing, the chief clerk shall be responsible for delivery of a certified copy of the committee report to the appropriate calendars committee, which committee shall immediately accept the bill or resolution for placement on a calendar and for the proposal of an appropriate rule for house consideration.

Section 39. Committee Amendments — No committee shall have the power to amend, delete, or change in any way the nature, purpose, or content of any bill or resolution referred to it, but may draft and recommend amendments to it, which shall become effective only if adopted by a majority vote of the house.

EXPLANATORY NOTES

If amendments are proposed by a committee they should be numbered for printing, but they should be numbered only after they are finally approved by the committee. That is, the order of offering and adoption in committee has no significance. Thus, a series of committee amendments should appear in the printed bill numbered in an uninterrupted series beginning at No. 1.

Section 40. Substitutes — The committee may adopt and report a complete germane committee substitute containing the title, enacting clause, and text of the bill in lieu of an original bill, in which event the complete substitute bill on committee report shall be laid before the house and shall be the matter then before the house for its consideration, instead of the original bill. If the substitute bill is defeated at any legislative stage, the bill is considered not passed.

EXPLANATORY NOTES

Whenever a complete committee substitute is agreed to, and in the process of committee consideration amendments thereto have been adopted, the committee clerk should incorporate these amendments into the complete substitute before filing the bill with the chief clerk for printing. Thus, only a single and complete substitute, representing the new bill body, should be printed. The printing of committee amendments to a committee substitute results in much confusion.

Section 41. Germaneness of Substitute — If a point of order is raised that a complete committee substitute is not germane, in whole or in part, and the point of order is sustained, the committee substitute shall be returned to the Committee on Calendars, which may have the original bill printed and distributed and placed on a calendar in lieu of the substitute or may return the original bill to the committee from which it was reported for further action.

HOUSE PRECEDENTS

POINTS OF ORDER RELATIVE TO COMPLETE COMMITTEE SUBSTITUTE BEING NOT GERMANE. — Mr. Davis raised a point of order against further consideration of the complete committee substitute to H.B. 750, in that it violated Rule 18, Sec. 7 (now Rule 11, Sec. 2), the germaneness rule of the house, by the inclusion of items not found in the original bill.

The speaker, Mr. Clayton, sustained the point of order and stated that C.S.H.B. 750 comes under the provisions of Rule 5, Sec. 36 (now this section), and would be returned to the Committee on Calendars. The Committee on Calendars then returned H.B. 750, as filed with the chief clerk, to the Committee on Public Education for further consideration. (65 H.J. Reg. 1661 (1977))

Mr. Davis raised a point of order against further consideration of the complete committee substitute to S.B. 1275 in that it violated the germaneness rule of the house (now Rule 11, Section 2), by the inclusion of items not found in the original bill.

The speaker, Mr. Clayton, sustained the point of order stating that in so sustaining the point of order, C.S.S.B. 1275 comes under the provisions of Rule 5, Sec. 36 (now this section), and would be returned to the Committee on Calendars. The Committee on Calendars then ordered S.B. 1275 as received from the senate, printed, distributed, and placed on the calendar for future consideration. (65 H.J. Reg. 4093 (1977))

Section 42. Author's Right to Offer Amendments to Report — Should the author or sponsor of the bill, resolution, or other proposal not be satisfied with the final recommendation or form of the committee report, the member shall have the privilege of offering on the floor of the house such amendments or changes as he or she considers necessary and desirable, and those amendments or changes shall be given priority during the periods of time when original amendments are in order under the provisions of Rule 11, Section 7.

Chapter D. Subcommittees

Section 43. Jurisdiction — Each committee is authorized to conduct its activities and perform its work through the use of subcommittees as shall be determined by the chair of the committee. Subcommittees shall be created, organized, and operated in such a way that the subject matter and work area of each subcommittee shall be homogeneous and shall pertain to related governmental activities. The size and jurisdiction of each subcommittee shall be determined by the chair of the committee.

Section 44. Membership — The chair of each standing committee shall appoint from the membership of the committee the members who are to serve on each subcommittee. Any vacancy on a subcommittee shall be filled by appointment of the chair of the standing committee. The chair and vice-chair of each subcommittee shall be named by the chair of the committee.

Section 45. Rules Governing Operations — The Rules of Procedure of the House of Representatives, to the extent applicable, shall govern the hearings

and operations of each subcommittee. Subject to the foregoing, and to the extent necessary for orderly transaction of business, each subcommittee may promulgate and adopt additional rules and procedures by which it will function.

Section 46. Quorum — A majority of a subcommittee shall constitute a quorum, and no action or recommendation of a subcommittee shall be valid unless taken at a meeting with a quorum actually present. All reports of a subcommittee must be approved by record vote by a majority of the membership of the subcommittee. Minutes of the subcommittee shall be maintained in a manner similar to that required by the rules for standing committees. Proxies cannot be used in subcommittees.

Section 47. Power and Authority — Each subcommittee, within the area of its jurisdiction, shall have all of the power, authority, and rights granted by the Rules of Procedure of the House of Representatives to the standing committee, except subpoena power, to the extent necessary to discharge the duties and responsibilities of the subcommittee.

Section 48. Referral of Proposed Legislation to Subcommittee —All bills and resolutions referred to a standing committee shall be reviewed by the chair to determine appropriate disposition of the bills and resolutions. All bills and resolutions shall be considered by the entire standing committee unless the chair of that standing committee determines to refer the bills and resolutions to subcommittee. If a bill or resolution is referred by the chair of the standing committee to a subcommittee, it shall be considered by the subcommittee in the same form in which the measure was referred to the standing committee, and any action taken by the standing committee on a proposed amendment or committee substitute before a measure is referred to subcommittee is therefore voided at the time the measure is referred to subcommittee. The subcommittee shall be charged with the duty and responsibility of conducting the hearing, doing research, and performing such other functions as the subcommittee or its parent standing committee may determine. All meetings of the subcommittee shall be scheduled by the subcommittee chair, with appropriate public notice and notification of each member of the subcommittee under the same rules of procedure as govern the conduct of the standing committee.

Section 49. Report by Subcommittee — At the conclusion of its deliberations on a bill, resolution, or other matter referred to it, the subcommittee may prepare a written report, comprehensive in nature, for submission to the full committee. The report shall include background material as well as recommended action and shall be accompanied by a complete draft of the bill, resolution, or other proposal in such form as the subcommittee shall determine.

Section 50. Action on Subcommittee Reports — Subcommittee reports shall be directed to the chair of the committee, who shall schedule meetings of the standing committee from time to time as necessary and appropriate for the reception of subcommittee reports and for action on reports by the standing committee. No subcommittee report shall be scheduled for action by the

standing committee until at least 24 hours after a copy of the subcommittee report is provided to each member of the standing committee.

Chapter E. Committees of the Whole House

Section 51. Resolution Into a Committee of the Whole House —The house may resolve itself into a committee of the whole house to consider any matter referred to it by the house. In forming a committee of the whole house, the speaker shall vacate the chair and shall appoint a chair to preside in committee.

EXPLANATORY NOTES

When the house resolves into the committee of the whole house, the minutes of the committee (except testimony, etc.) are kept by the journal clerk just as though the house were in session. These minutes form the body of the report which the chair of the committee of the whole makes to the house when the committee rises. Testimony taken before the committee may be printed as an appendix to the journal or may be embodied in the minutes of the committee and reported to the house by the chair. During investigations, the chair sometimes instructs the staff to furnish the journal clerk with a complete transcript of the proceedings from the time the committee begins work until it completes its labors and rises.

Section 52. Rules Governing Operations — The rules governing the proceedings of the house and those governing committees shall be observed in committees of the whole, to the extent that they are applicable.

Section 53. Motion for a Call of the Committee of the Whole — (a) It shall be in order to move a call of the committee of the whole at any time to secure and maintain a quorum for the following purposes:

(1) for the consideration of a certain or specific matter; or
(2) for a definite period of time; or
(3) for the consideration of any designated class of bills.

(b) When a call of the committee of the whole is moved and seconded by 10 members, of whom the chair may be one, and is ordered by majority vote, the main entrance of the hall and all other doors leading out of the hall shall be locked, and no member shall be permitted to leave the hall without written permission. Other proceedings under a call of the committee shall be the same as under a call of the house.

Section 54. Handling of a Bill — A bill committed to a committee of the whole house shall be handled in the same manner as in any other committee. The body of the bill shall not be defaced or interlined, but all amendments shall be duly endorsed by the chief clerk as they are adopted by the committee, and so reported to the house. When a bill is reported by the committee of the whole house it shall be referred immediately to the appropriate calendars committee for placement on the appropriate calendar and shall follow the same procedure as any other bill on committee report.

Section 55. Failure to Complete Work at Any Sitting — In the event that the committee of the whole, at any sitting, fails to complete its work on any bill or resolution under consideration for lack of time, or desires to take any action on that measure that is permitted under the rules for other committees, it may, on a motion made and adopted by majority vote, rise, report progress, and ask leave of the house to sit again generally, or at a time certain.

Section 56. Reports of Select Committees — Reports of select committees made during a session shall be filed with the chief clerk and printed in the journal, unless otherwise determined by the house.

EXPLANATORY NOTES

Reports of investigating committees and certain other select committees often do not make any recommendations for action on the particular subject for which the committee was appointed, and, in such case, a motion to accept the report may be made as a means of discharging the committee. When a report carries recommendations for legislative action, the report is accepted and the committee discharged without action on the report itself. If legislative action is desired, action or expression must be taken through introduction of a bill or concurrent resolution.

Chapter F. Interim Study Committees

Section 57. Interim Studies — Pursuant to Rule 1, Section 17, the speaker may create interim study committees to conduct studies by issuing a proclamation for each committee, which shall specify the issue to be studied, committee membership, and any additional authority and duties. A copy of each proclamation creating an interim study committee shall be filed with the chief clerk. An interim study committee expires on release of its final report or when the next legislature convenes, whichever is earlier. An interim study committee may not be created by resolution.

Section 58. Appointment and Membership — The speaker shall appoint all members of an interim study committee, which may include public citizens and officials of state and local governments. The speaker shall also designate the chair and vice-chair and may authorize the chair to create subcommittees and appoint citizen advisory committees.

Section 59. Rules Governing Operations — The rules governing the proceedings of the house and those governing standing committees shall be observed by an interim study committee, to the extent that they are applicable. An interim study committee shall have the power to issue process and to request assistance of state agencies as provided for a standing committee in Sections 21, 22, and 23 of this rule.

Section 60. Funding and Staff — An interim study committee shall use existing staff resources of its members, standing committees, house offices, and legislative service agencies. The chair of an interim study committee shall prepare a detailed budget for approval by the speaker and the Committee on

House Administration. An interim study committee may accept gifts, grants, and donations for the purpose of funding its activities as provided by Sections 301.032(b) and (c), Government Code.

Section 61. Study Reports — The final report or recommendations of an interim study committee shall be approved by a majority of the committee membership. Dissenting members may attach statements to the final report. Five copies of the report shall be submitted to the speaker; 50 copies shall be provided to House Bill Distribution for sale at cost; and 75 copies shall be provided to the committee coordinator, who shall make the appropriate distribution to the Legislative Reference Library and state library and archives. This section shall also apply to interim study reports of standing committees.

Section 62. Joint House and Senate Interim Studies — Procedures may be established by a concurrent resolution adopted by both houses, by which the speaker may authorize and appoint, jointly with the senate, committees to conduct interim studies. A copy of the authorization for and the appointments to a joint interim study committee shall be filed with the chief clerk. Individual joint interim study committees may not be authorized or created by resolution.

Rule 5. Floor Procedure

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RULE 5
Floor Procedure

Chapter A. Quorum and Attendance

Section 1. Quorum — Two-thirds of the house shall constitute a quorum to do business.

Section 2. Roll Calls — On every roll call or registration, the names of the members shall be called or listed, as the case may be, alphabetically by surname, except when two or more have the same surname, in which case the initials of the members shall be added.

Section 3. Leave of Absence — (a) No member shall be absent from the sessions of the house without leave, and no member shall be excused on his or her own motion.

(b) A leave of absence may be granted by a majority vote of the house and may be revoked at any time by a similar vote.

(c) Any member granted a leave of absence due to a meeting of a committee or conference committee that has authority to meet while the house is in session shall be so designated on each roll call or registration for which that member is excused.

Section 4. Failure to Answer Roll Call — Any member who is present and fails or refuses to record on a roll call after being requested to do so by the speaker shall be recorded as present by the speaker and shall be counted for the purpose of making a quorum.

Section 5. Point of Order of "No Quorum" — (a) The point of order of "No Quorum" shall not be accepted by the chair if the last roll call showed the presence of a quorum, provided the last roll call was taken within two hours of the time the point of order is raised.

(b) If the last roll call was taken more than two hours before the point of order is raised, it shall be in order for the member who raised the point of order to request a roll call. Such a request must be seconded by 25 members. If the request for a roll call is properly seconded, the chair shall order a roll call.

(c) Once a point of order has been made that a quorum is not present, it may not be withdrawn after the absence of a quorum has been ascertained and announced.

Section 6. Motions In Order When Quorum Not Present — If a registration or record vote reveals that a quorum is not present, only a motion to adjourn or a motion for a call of the house and the motions incidental thereto shall be in order.

Section 7. Motion for Call of the House — It shall be in order to move a call of the house at any time to secure and maintain a quorum for one of the following purposes:

(1) for the consideration of a specific bill, resolution, motion, or other measure;

(2) for the consideration of any designated class of bills; or
(3) for a definite period of time.

Motions for, and incidental to, a call of the house are not debatable.

HOUSE PRECEDENTS

1. BILL CONSIDERED UNDER CALL OF THE HOUSE MADE A SPECIAL ORDER. — In the 51st Legislature, the speaker, Mr. Manford, held that when a bill was being considered under a call of the house, pursuant to (1) above, a motion to set the bill as a special order for another time was in order.

2. ILLUSTRATION OF A "CLASS OF BILLS". — The house was considering H.B. 231. Mr. Pool moved a call of the house until House Bills 231, 232, 233, and 288 were disposed of. Mr. Hale raised a point of order that such was not a valid motion in that it encompassed four separate bills which did not constitute a "class" under this section.

The speaker, Mr. Carr, in overruling the point of order, called attention to the fact that all four bills dealt with the same general subject matter, i.e., segregation in the public schools, that their provisions were complementary, and that, in his opinion, they constituted a "class of bills" as contemplated in this section. (55th Reg.)

Section 8. Securing a Quorum — When a call of the house is moved for one of the above purposes and seconded by 15 members (of whom the speaker may be one) and ordered by a majority vote, the main entrance to the hall and all other doors leading out of the hall shall be locked and no member permitted to leave the house without the written permission of the speaker. The names of members present shall be recorded. All absentees for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested, wherever they may be found, by the sergeant-at-arms or an officer appointed by the sergeant-at-arms for that purpose, and their attendance shall be secured and retained. The house shall determine on what conditions they shall be discharged. Members who voluntarily appear shall, unless the house otherwise directs, be immediately admitted to the hall of the house and shall report their names to the clerk to be entered in the journal as present.

Until a quorum appears, should the roll call fail to show one present, no business shall be transacted, except to compel the attendance of absent members or to adjourn. It shall not be in order to recess under a call of the house.

EXPLANATORY NOTES

The procedure outlined in this section is mandatory after a call of the house is "moved," a motion to recess not being acceptable between the "seconding" and the "ordering" vote on the call. However, due to its high priority, a motion to adjourn could come between, or even ahead of the "seconding" procedure.

HOUSE PRECEDENTS

1. NO SUBSTITUTE FOR A CALL OF THE HOUSE. — In the 51st Legislature, the speaker, Mr. Manford, held that there is no substitute for a call of the house, i.e., a different time or purpose cannot be substituted.

2. CALL OF THE HOUSE IN EFFECT PENDING VERIFICATION. — In the 51st Legislature, the speaker, Mr. Manford, as the result of a 65 to 64 vote for a call of the house, ordered the doors of the house closed immediately despite a request for a verification which he accepted and allowed. The verification sustained the announced vote.

CONGRESSIONAL PRECEDENTS

CALL OF THE HOUSE. — A member who appears and answers is not subject to arrest (4 H.P. 3019). During a call less than a quorum may revoke leaves of absence (4 H.P. 3003), and excuse a member from attendance (5 H.P. 3000, 3001). During a call incidental motions may be agreed to by less than a quorum (4 H.P. 2994, 3029). Motions incidental to a call of the house are not debatable (6 C.P. 688). The point of no quorum may not be withdrawn after the absence of a quorum has been ascertained and announced (6 C.P. 657), and in the absence of a quorum no business may be transacted, even by unanimous consent (6 C.P. 660). When the Committee of the Whole finds itself without a quorum the motion to rise is privileged (6 C.P. 671).

Section 9. Following Achievement of a Quorum — When a quorum is shown to be present, the house may proceed with the matters on which the call was ordered, or may enforce the call and await the attendance of as many of the absentees as it desires. When the house proceeds to the business on which the call was ordered, it may, by a majority vote, direct the sergeant-at-arms to cease bringing in absent members.

Section 10. Repeating a Record Vote — When a record vote reveals the lack of a quorum, and a call is ordered to secure one, a record vote shall again be taken when the house resumes business with a quorum present.

Chapter B. Admittance to House Chamber

Section 11. Privileges of the House Floor — Only the following persons shall be entitled to the privileges of the floor of the house when the house is in session: members of the house; employees of the house when performing their official duties as determined by the Committee on House Administration; members of the senate; employees of the senate when performing their official duties; the Governor of Texas and the governor's executive and administrative assistant; the lieutenant governor; the secretary of state; duly accredited reporters, photographers, correspondents, and commentators of press, radio, and television who have complied with Sections 20(a), (b), (c), and (d) of this rule; contestants in election cases pending before the house; and immediate families of the members of the legislature on such special occasions as may be determined by the Committee on House Administration.

Section 12. Admittance Within the Railing — Only the following persons shall be admitted to the area on the floor of the house enclosed by the railing when the house is in session: members of the house; members of the senate; the governor; the lieutenant governor; officers and employees of the senate and house when those officers and employees are actually engaged in

performing their official duties as determined by the Committee on House Administration; spouses of members of the house on such occasions as may be determined by the Committee on House Administration; and, within the area specifically designated for media representatives, duly accredited reporters, photographers, correspondents, and commentators of press, radio, and television who have complied with Sections 20(a), (b), (c), and (d) of this rule.

Section 13. Solicitors and Collectors Prohibited — Solicitors and collectors shall not be admitted to the floor of the house while the house is in session.

Section 14. Invitation to Address the House — A motion to invite a person to address the house while it is in session shall be in order only if the person invited is entitled to the privileges of the floor as defined by Section 11 of this rule and if no business is pending before the house.

EXPLANATORY NOTES

Invitations to persons to address the house are usually extended by house resolution, adopted by majority vote. If the invitation is for an address to a joint session, a concurrent resolution is required.

Section 15. Lobbying on Floor — No one, except the governor or a member of the legislature, who is lobbying or working for or against any pending or prospective legislative measure shall be permitted on the floor of the house or in the adjacent rooms while the house is in session.

Section 16. Suspension of Floor Privileges — If any person admitted to the floor of the house under the rules, except the governor or a member of the legislature, lobbies or works for or against any pending or prospective legislation or violates any of the other rules of the house, the privileges extended to that person under the rules shall be suspended by a majority vote of the Committee on House Administration. The action of the committee shall be reviewable by the house only if two members of the committee request an appeal from the decision of the committee. The request shall be in the form of a minority report and shall be subject to the same rules that are applicable to minority reports on bills. Suspension shall remain in force until the accused person purges himself or herself and comes within the rules, or until the house, by majority vote, reverses the action of the committee.

Section 17. Members Lounge Privileges — Only the following persons shall be admitted to the members lounge at any time: members of the house; members of the senate; and former members of the house and senate who are not engaged in any form of employment requiring them to lobby or work for or against any pending or prospective legislative measures.

Section 18. Floor Duties of House Officers and Employees — It shall be the duty of the Committee on House Administration to determine what duties are to be discharged by officers and employees of the house on the floor of the house, specifically in the area enclosed by the railing, when the house is in session. It shall be the duty of the speaker to see that the officers and

employees do not violate the regulations promulgated by the Committee on House Administration.

Section 19. Proper Decorum — No person shall be admitted to, or allowed to remain in, the house chamber while the house is in session unless properly attired, and all gentlemen shall wear a coat and tie. Food or beverage shall not be permitted in the house chamber at any time, and no person carrying food or beverage shall be admitted to the chamber, whether the house is in session or in recess. Reading newspapers shall not be permitted in the house chamber while the house is in session. Smoking is not permitted in the members lounge or bathrooms. The Committee on House Administration shall designate an area for smoking that is easily accessible to the house chamber.

Section 20. Media Access to House Chamber — (a) When the house is in session, no media representative shall be admitted to the floor of the house or allowed its privileges unless the person is a salaried staff correspondent, reporter, or photographer regularly employed by a newspaper, a press association or news service serving newspapers, a publication requiring telegraphic coverage, or a duly licensed radio or television station or network.

(b) Any media representative seeking admission to the floor of the house under the provisions of Subsection (a) of this section must present to the Committee on House Administration fully accredited credentials from his or her employer certifying that the media representative is engaged primarily in reporting the sessions of the legislature. Regularly accredited media representatives who have duly qualified under the provisions of this section may, when requested to do so, make recommendations through their professional committees to the Committee on House Administration as to the sufficiency or insufficiency of the credentials of any person seeking admission to the floor of the house under this section.

Every media representative, before being admitted to the floor of the house during its sessions, shall file with the Committee on House Administration a written statement showing the paper or papers, press association, news service, publication requiring telegraphic coverage, or radio or television station or network which he or she represents and certifying that no part of his or her salary for legislative coverage is paid by any person, firm, corporation, or association except the listed news media which he or she represents.

(c) If the Committee on House Administration determines that a person's media credentials meet the requirements of this section, the committee shall issue a pass card to the person. This pass card must be presented to the doorkeeper each time the person seeks admission to the floor of the house while the house is in session. Pass cards issued under this section shall not be transferable. Persons admitted to the floor of the house pursuant to the provisions of this section shall work in appropriate convenient seats or work stations in the house, which shall be designated for that purpose by the Committee on House Administration.

(d) Members of the house shall not engage in interviews and press conferences on the house floor while the house is in session. The Committee on House Administration is authorized to enforce this provision and to prescribe

such other regulations as may be necessary and desirable to achieve these purposes. Persons governed by this subsection shall be subject to the provisions of Section 15 of this rule.

(e) Permission to make live or recorded television or radio broadcasts in or from the house chamber while the house is in session may be granted only by the Committee on House Administration. The committee shall promulgate regulations governing television or radio broadcasts, and such regulations shall be printed as an addendum to the rules of the house. When television or radio broadcasts from the floor of the house are recommended by the Committee on House Administration, the recommendation shall identify those persons in the technical crews to whom pass cards to the floor of the house and galleries are to be issued. Passes granted under this authority shall be subject to revocation on the recommendation of the Committee on House Administration. Each committee of the house shall have authority to determine whether or not to permit television or radio broadcasts of any of its proceedings.

Section 21. Public Admission to and Nonlegislative Use of the House Chamber — When the house is not in session, the floor of the house shall remain open on days and hours determined by the Committee on House Administration. By resolution, the house may open the floor of the house during its sessions for the inauguration of the governor and lieutenant governor and for such other public ceremonies as may be deemed warranted.

Chapter C. Speaking and Debate

Section 22. Addressing the House — When a member desires to speak or deliver any matter to the house, the member shall rise and respectfully address the speaker as "Mr. (or Madam) Speaker" and, on being recognized, may address the house from the microphone at the reading clerk's desk, and shall confine all remarks to the question under debate, avoiding personalities.

Section 23. When Two Members Rise at Once — When two or more members rise at once, the speaker shall name the one who is to speak first. This decision shall be final and not open to debate or appeal.

Section 24. Recognition — There shall be no appeal from the speaker's recognition, but the speaker shall be governed by rules and usage in priority of entertaining motions from the floor. When a member seeks recognition, the speaker may ask, "For what purpose does the member rise?" or "For what purpose does the member seek recognition?" and may then decide if recognition is to be granted.

EXPLANATORY NOTES

In recognition for general debate, the speaker alternates between those favoring and those opposing a measure.

Section 25. Interruption of a Member Who Has the Floor — A member who has the floor shall not be interrupted by another member for any purpose, unless he or she consents to yield to the other member. A member desiring to interrupt another in debate should first address the speaker for the

permission of the member speaking. The speaker shall then ask the member who has the floor if he or she wishes to yield, and then announce the decision of that member. The member who has the floor may exercise personal discretion as to whether or not to yield, and it is entirely within the member's discretion to determine who shall interrupt and when.

EXPLANATORY NOTES

Under no condition does a member having the floor have the right to yield to another member for a specific purpose determined by himself or through agreement with the member to whom he yields, unless the second member first secures recognition from the speaker to make the motion. For example, he cannot yield directly to another member for a motion to adjourn without the second member having been recognized by the chair for the purpose. Further, if a member yields the floor, he does so completely, and cannot in any way bind the chair to a subsequent recognition.

CONGRESSIONAL PRECEDENTS

GENERAL RULES — DECORUM AND DEBATE. — It is a general rule that a motion must be made before a member may proceed in debate (5 H.P. 4984, 4985). A motion must also be stated by the speaker or read by the clerk before debate may begin (5 H.P. 4982, 4983, 5304). In addressing the house, the member should also address the chair (5 H.P. 4980). It is a breach of order for members from their seats to interject remarks into the speech of a member having the floor (8 C.P. 2463). It has always been held, and generally quite strictly, that in the house a member must confine himself to the subject under debate (5 H.P. 5043, 5048). In general, on a motion to amend, the debate is confined to the amendment and may not include the general merits of the bill (5 H.P. 5049, 5051). While the senate may be referred to properly in debate, it is not in order to discuss its functions or criticize its acts (5 H.P. 5114, 5140). It is not in order in debate to refer to a senator in terms of personal criticism (5 H.P. 5121, 5122). It is not in order in debate for a member to impugn the motives or criticize the actions of members of the senate (8 C.P. 2520). It is not in order in debate to cast reflection on either the house or its membership or its decisions, whether past or present (5 H.P. 5132-5138).

Section 26. Yielding the Floor — A member who obtains the floor on recognition of the speaker may not be taken off the floor by a motion, even the highly privileged motion to adjourn, but if the member yields to another to make a motion or to offer an amendment, he or she thereby loses the floor.

Section 27. Right to Open and Close Debate — The mover of any proposition, or the member reporting any measure from a committee, or, in the absence of either of them, any other member designated by such absentee, shall have the right to open and close the debate, and for this purpose may speak each time not more than 20 minutes.

EXPLANATORY NOTES

1. The "mover of a proposition" is the mover of the original proposition before the house for consideration. In the case of a bill being considered, the member having the bill in charge is the mover of the proposition.
2. Since an amendment to strike out the enacting clause of a bill, if adopted, has the effect of killing the bill, it opens for debate the merits of the entire bill.
3. Debate on any debatable motion may be had (unless the previous question has been ordered) whenever that motion is before the house regardless of the fate of any motion made thereto. For example, if a motion to recommit is made and a motion to table same is made and lost, the motion to recommit is still open to debate.

CONGRESSIONAL PRECEDENTS

LOSS OF RIGHT TO PRIOR RECOGNITION. — When an essential motion made by the member in charge of the bill is decided adversely, the right to prior recognition passes to the member leading the opposition (2 H.P. 1465-1468), but the mere defeat of an amendment proposed by the member in charge does not cause prior right of recognition to pass to the opponents (2 H.P. 1478-1479).

Section 28. Time Limits on Speeches — All speeches shall be limited to 10 minutes in duration, except as provided in Section 27 of this rule, and the speaker shall call the members to order at the expiration of their time. If the house by a majority vote extends the time of any member, the extension shall be for 10 minutes only. A second extension of time shall be granted only by unanimous consent. During the last 10 calendar days of the regular session, and the last 5 calendar days of a special session, Sundays excepted, all speeches shall be limited to 10 minutes and shall not be extended. The time limits established by this rule shall include time consumed in yielding to questions from the floor.

EXPLANATORY NOTES

1. See Rule 7, Sec. 2, for a list of motions on which three-minute pro and con debate is allowed.
2. When a motion to suspend the rules to extend a member's time in debate carries, the extension, under prevailing practice, is for ten minutes in ordinary debate and three minutes in three-minute pro and con debate, unless a specific time is mentioned in the motion.

Section 29. Limit on Number of Times to Speak — No member shall speak more than twice on the same question without leave of the house, nor more than once until every member choosing to speak has spoken, nor shall any member be permitted to consume the time of another member without leave of the house being given by a majority vote.

CONGRESSIONAL PRECEDENTS

MEMBER SPEAKING MORE THAN ONCE. — A member who has spoken once on a main question may speak again on an amendment (5 H.P. 4993, 4994). It is too late to make the point that a member

has spoken already if no one claims the floor until he has made some progress in his speech (5 H.P. 4992).

Section 30. Effect of Adjournment on Speaking Limit — If a pending question is not disposed of because of an adjournment of the house, a member who has spoken twice on the subject shall not be allowed to speak again without leave of the house.

Section 31. Objection to Reading a Paper — When the reading of a paper is called for, and objection is made, the matter shall be determined by a majority vote of the house, without debate.

Section 32. Passing Between Microphones During Debate — No person shall pass between the front and back microphones during debate or when a member has the floor and is addressing the house.

Section 33. Transgression of Rules While Speaking — If any member, in speaking or otherwise, transgresses the rules of the house, the speaker shall, or any member may, call the member to order, in which case the member so called to order shall immediately be seated; however, that member may move for an appeal to the house, and if appeal is duly seconded by 10 members, the matter shall be submitted to the house for decision by majority vote. In such cases, the speaker shall not be required to relinquish the chair, as is required in cases of appeals from the speaker's decisions. The house shall, if appealed to, decide the matter without debate. If the decision is in favor of the member called to order, the member shall be at liberty to proceed; but if the decision is against the member, he or she shall not be allowed to proceed, and, if the case requires it, shall be liable to the censure of the house, or such other punishment as the house may consider proper.

Section 34. Electronic Recording of All House Proceedings — All proceedings of the house of representatives shall be electronically recorded under the direction of the Committee on House Administration. Copies of the proceedings may be released under guidelines promulgated by the Committee on House Administration.

Chapter D. Questions of Privilege

Section 35. Questions of Privilege Defined — Questions of privilege shall be:

(1) those affecting the rights of the house collectively, its safety and dignity, and the integrity of its proceedings; and

(2) those affecting the rights, reputation, and conduct of members individually in their representative capacity only.

Section 36. Precedence of Questions of Privilege — Questions of privilege shall have precedence over all other questions except motions to adjourn. When in order, a member may address the house on a question of privilege, or may at any time print it in the journal, provided it contains no reflection on any member of the house.

Section 37. When Questions of Privilege Not In Order — It shall not be in order for a member to address the house on a question of privilege:

(1) between the time an undebatable motion is offered and the vote is taken on the motion;

(2) between the time the previous question is ordered and the vote is taken on the last proposition included under the previous question; or

(3) between the time a motion to table is offered and the vote is taken on the motion.

Section 38. Confining Remarks to Question of Privilege; Interruptions Prohibited — (a) When speaking on privilege, members must confine their remarks within the limits of Section 35 of this rule, which will be strictly construed to achieve the purposes hereof.

(b) When a member is speaking on privilege, the member shall not be interrupted by another member for any purpose. While the member is speaking, another member may submit a question of order to the speaker in writing or by approaching the podium in person. The member submitting the question of order shall not interrupt the member who is speaking. The speaker may interrupt the member who is speaking if the speaker determines it is appropriate to address the question of order at that time.

Section 39. Discussion of Merits of Motion Forbidden — Merits of a main or subsidiary motion shall not be discussed or debated under the guise of speaking to a question of privilege.

CONGRESSIONAL PRECEDENTS

PRIVILEGE OF THE HOUSE. — The privilege of the house, as distinguished from that of the individual member, includes questions relating to its constitutional prerogatives, in respect to revenue legislation, etc. (2 H.P. 1480-1501); its power to punish for contempt, whether of its own members (2 H.P. 1641-1665), of witnesses who are summoned to give information (2 H.P. 1608, 1612; 3 H.P. 1666-1724), or of other persons (2 H.P. 1597-1640); questions relating to its organization (1 H.P. 22-24, 189, 212, 290), and the title of its members to their seats (3 H.P. 2579-2587); the conduct of officers and employees (1 H.P. 284-285; 3 H.P. 2628, 2645-2647); comfort and convenience of members and employees (3 H.P. 2629-2636); admission to the floor of the house (3 H.P. 2624-2626); the accuracy and propriety of reports in the Congressional Record (5 H.P. 7005-7023); the conduct of representatives of the press (2 H.P. 1630, 1631; 3 H.P. 2627); the integrity of its journal (2 H.P. 1363; 3 H.P. 2620); the protection of its records (3 H.P. 2659); the accuracy of its documents (5 H.P. 7329) and messages (3 H.P. 2613); and the integrity of the processes by which bills are considered (3 H.P. 2597-2601, 2614; 4 H.P. 3383, 3388, 3478).

PRIVILEGE OF THE MEMBER. — The privilege of the member rests primarily on the constitution, which gives him a conditional immunity from arrest, etc. (3 H.P. 2670). A menace to the personal safety of members from an insecure ceiling in the hall was held to involve a question of the highest privilege (3 H.P. 2685). Charges against the conduct of a member are held to involve privilege when they relate to his representative capacity (3 H.P. 1828-1830, 2716). A distinction

has been drawn between charges made by one member against another in a newspaper and the same when made on the floor (3 H.P. 1827, 2691, 2717). Charges made in newspapers against members in their representative capacities involve privilege (3 H.P. 1832, 2694, 2696-2699, 2703, 2704), even though the names of the individual members be not given (3 H.P. 1831, 2705, 2709). But vague charges in newspaper articles (3 H.P. 2711), criticisms (3 H.P. 2712-2714), or even misrepresentations of the members' acts or speeches have not been entertained (3 H.P. 2707, 2708). A member making a statement in a matter of personal privilege should confine his remarks to that which concerns himself personally (5 H.P. 5078). While a member rising to a question of personal privilege may be allowed some latitude, yet the rule requiring a member to confine himself to the subject holds in this case (5 H.P. 5075, 5076).

PRECEDENCE OF QUESTIONS OF PERSONAL PRIVILEGE. — A member rising to a question of personal privilege may not interrupt a call of the yeas and nays (5 H.P. 6051, 6052, 6058, 6059) or take from the floor another member who has been recognized for debate (5 H.P. 5002).

Chapter E. Voting

Section 40. Recording All Votes on Voting Machine — On all votes, except viva voce votes, members shall record their votes on the voting machine and shall not be recognized by the chair to cast their votes from the floor. If a member attempts to vote from the floor, the speaker shall sustain a point of order directed against the member's so doing. This rule shall not be applicable to the mover or the principal opponent of the proposition being voted on nor to a member whose voting machine is out of order.

EXPLANATORY NOTES

It is the practice of the chair, on close votes and on demand for a "strict enforcement of the rules," to accept only one "Yea" and one "Nay" vote from the floor, refusing to accept others. Actually, under the above section he could refuse any floor votes but these two, but allows violations frequently as an accommodation to members who are temporarily away from their seats.

Section 41. Registration Equivalent to Roll Call Vote — A registration or vote taken on the voting machine of the house shall in all instances be considered the equivalent of a roll call or yea and nay vote, which might be had for the same purpose.

EXPLANATORY NOTES

This provision allows the house to use a voting machine to register a vote in place of a verbal roll call of the members.

Section 42. Disclosure of Personal or Private Interest — Any member who has a personal or private interest in any measure or bill proposed or pending before the house shall disclose the fact and not vote thereon.

EXPLANATORY NOTES

This is a constitutional provision embodied in the rules of the house, with which each member is left to comply according to his or her own judgment as to what constitutes a personal or private interest. Texas Const., Art. 3, Sec. 22.

CONGRESSIONAL PRECEDENTS

PERSONAL INTEREST. — In one or two instances the speaker has decided that because of personal interest, a member should not vote (5 H.P. 5955, 5958); but usually the speaker has held that the member himself should determine this question (5 H.P. 5950, 5951), and one speaker denied his own power to deprive a member of the constitutional right to vote (5 H.P. 5966). It has been held that the disqualifying interest must be such as affects the member directly (5 H.P. 5954, 5955, 5963), and not as one of a class (5 H.P. 5952; 8 C.P. 3072).

Section 43. Dividing the Question — By a majority vote of the house, a quorum being present, the question shall be divided, if it includes propositions so distinct in substance that, one being taken away, a substantive proposition remains. A motion for a division vote cannot be made after the previous question has been ordered, after a motion to table has been offered, after the question has been put, nor after the yeas and nays have been ordered. Under this subsection, the speaker may divide the question into groups of propositions that are closely related.

CONGRESSIONAL PRECEDENTS

DIVISION OF THE QUESTION. — After the question has been put it may not be divided (5 H.P. 6162), nor after the yeas and nays have been ordered (5 H.P. 6160, 6161), but it may be demanded after the previous question has been ordered (5 H.P. 5468, 6149). The principle that there must be at least two substantive propositions in order to satisfy a division is insisted on rigidly (5 H.P. 6108-6113). In passing on a demand for a division, the chair considers only substantive propositions and not the merits of the questions presented (5 H.P. 6122). It seems to be most proper, also, that the division should depend upon grammatical structure rather than on legislative propositions involved (1 H.P. 394; 5 H.P. 6119). Although a question presents two propositions grammatically it is not divisible if either does not constitute a substantive proposition when considered alone (8 C.P. 3165). Decisions have been made that a resolution affecting two individuals may be divided, although such division may involve a reconstruction of the text (1 H.P. 623; 5 H.P. 6119-6121). The better practice seems to be, however, that this reconstruction of the text should be made by the adoption of a substitute of two branches, rather than by interpretation of the chair (2 H.P. 1621). When a motion is made to lay several connected propositions on the table, a division is not in order (5 H.P. 6138-6140). On a decision of the speaker involving two distinct questions, there may be a division on appeal (5 H.P. 6157).

Section 44. Failure or Refusal to Vote — Any member who is present and fails or refuses to vote after being requested to do so by the speaker shall

be recorded as present but not voting, and shall be counted for the purpose of making a quorum.

EXPLANATORY NOTES

Neither the journal clerk nor the voting clerk has the authority to show a member as "Absent — Excused," when in fact he has not been excused by a formal vote of the house. Occasionally the house, by formal vote, excuses a member temporarily, i.e., for a short period of time during a working day.

Section 45. Presence in House Required in Order to Vote — A member must be on the floor of the house or in an adjacent room or hallway on the same level as the house floor, in order to vote.

HOUSE PRECEDENTS

MEMBER CANNOT VOTE FROM THE GALLERY. — The house was considering H.B. 42. On the record vote on engrossment, a member sought to vote from the gallery. Mr. Norton raised the point of order that such a vote was not in order since members must be "in the house." The speaker, Mr. Manford, sustained the point of order. (51 H.J. Reg. 3020 (1949)).

CONGRESSIONAL PRECEDENTS

RIGHT OF MEMBERS TO VOTE. — It has been found impracticable to enforce the provisions requiring every member to vote (5 H.P. 5942-5948), and the weight of authority also favors the idea that there is no authority in the house to deprive a member of his right to vote (5 H.P. 5937, 5952, 5959, 5966, 5967).

Section 46. Locking Voting Machines of Absent Members — During each calendar day in which the house is in session, it shall be the duty of the voting clerk to lock the voting machine of each member who is excused or who is otherwise known to be absent. Each such machine shall remain locked until the member in person contacts the journal clerk and personally requests the unlocking of the machine. Unless otherwise directed by the speaker, the voting clerk shall not unlock any machine except at the personal request of the member to whom the machine is assigned. Any violation, or any attempt by a member or employee to circumvent the letter or spirit of this section, shall be reported immediately to the speaker for such disciplinary action by the speaker, or by the house, as may be warranted under the circumstances.

Section 47. Voting for Another Member — Any member found guilty by the house of knowingly voting for another member on the voting machine shall be subject to discipline deemed appropriate by the house.

EXPLANATORY NOTES

A possible serious consequence of permitting this practice would be a vote recorded for or against some important question contrary to the intent of the absent member. Such a vote might not be detected until after the permanent journal is published, when it would be too late to make correction.

Section 48. Interruption of a Roll Call — Once a roll call has begun, it may not be interrupted for any reason. While a yea and nay vote is being taken, or the vote is being counted, no member shall visit the reading clerk's desk or the voting clerk's desk.

CONGRESSIONAL PRECEDENTS

INTERRUPTION OF THE ROLL CALL. — When once begun the roll call may not be interrupted by a motion to adjourn (5 H.P. 6053), a parliamentary inquiry, a question of personal privilege (5 H.P. 6058, 6059), the arrival of the time fixed for another order of business (5 H.P. 6056), or for a recess (5 H.P. 6054, 6055), or the presentation of a conference report (5 H.P. 6443).

Section 49. Explanation of Vote — (a) No member shall be allowed to interrupt the vote or to make any explanation of a vote that the member is about to give after the voting machine has been opened, but may record in the journal the reasons for giving such a vote.

(b) A "Reason for Vote" must be in writing and filed with the journal clerk. If timely received, the "Reason for Vote" shall be printed immediately following the results of the vote in the journal. Otherwise, "Reasons for Vote" shall be printed in a separate section at the end of the journal for the day on which the reasons were recorded with the journal clerk. Such "Reason for Vote" shall not deal in personalities or contain any personal reflection on any member of the legislature, the speaker, the lieutenant governor, or the governor, and shall not in any other manner transgress the rules of the house relating to decorum and debate.

(c) A member absent when a vote was taken may file with the journal clerk while the house is in session a statement of how the member would have voted if present. If timely received, the statement shall be printed immediately following the results of the vote in the journal. Otherwise, statements shall be printed in a separate section at the end of the journal for the day on which the statements were recorded with the journal clerk.

EXPLANATORY NOTES

Speaker Tunnell during the 58th Legislature made it a practice to review the reasons for vote submitted to the journal clerk so as to assure compliance with Rule XI (now Subsec. (b) of this section). Those reasons for vote which would be subject to objection according to the rules of decorum and debate were denied printing in the journal.

Section 50. Pairs — All pairs must be announced before the vote is declared by the speaker, and a written statement sent to the journal clerk. The statement must be signed by the absent member to the pair, or the member's signature must have been authorized in writing, by telegraph, or by telephone, and satisfactory evidence presented to the speaker if deemed necessary. If authorized by telephone, the call must be to and confirmed by the chief clerk in advance of the vote to which it applies. Pairs shall be entered in the journal, and the member present shall be counted to make a quorum.

EXPLANATORY NOTES

1. Since a pair represents a private agreement between two members, the house has no control whatever over it except as provided in the above section. Where two members are "paired" on a vote or series of votes, the member present agrees with a member who is to be absent that the member present will not vote, but will be "present and not voting." The "pair" states how each of the members would have voted.

2. At one time the point of order was raised that while pairs could be accepted on a vote on a proposed constitutional amendment, the present "aye" votes should be counted, but the speaker and the house held to the contrary because a member cannot be compelled to vote if he does not so desire.

CONGRESSIONAL PRECEDENTS

PAIRS. — Pairs may not be announced at a time other than that prescribed by the rule (5 H.P. 6046). The house does not consider questions arising out of the breaking of a pair (5 H.P. 5982, 5983, 6095), or permit a member to vote after the call on a plea that he had refrained because of a misunderstanding as to a pair (5 H.P. 6080, 6081). (See Congressional Record, Aug. 27, 1918, p. 9583, for Speaker Clark's interpretation of the rule and practice of the house of representatives as to pairs.)

Section 51. Entry of Yea and Nay Vote in Journal; Effect of Approval of Bill or Joint Resolution Without Objection — (a) At the desire of any member present, the yeas and nays of the members of the house on any question shall be taken and entered in the journal. No member or members shall be allowed to call for a yea and nay vote after a vote has been declared by the speaker.

(b) A motion to expunge a yea and nay vote from the journal shall not be in order.

(c) The yeas and nays of the members of the house on final passage of any bill, and on any joint resolution proposing or ratifying a constitutional amendment, shall be taken and entered in the journal. For purposes of this subsection, a vote on final passage means a vote on:

(1) third reading;

(2) second reading if the house suspends or otherwise dispenses with the requirement for three readings;

(3) whether to concur in the senate's amendments; or

(4) whether to adopt a conference committee report.

(d) Passage of a bill or joint resolution "without objection" is the functional equivalent of a recorded vote in that the journal will show that every member present must have favored passage of the measure unless the member exercised the opportunity to register the member's vote otherwise. However, passage of a bill or joint resolution "without objection" does not satisfy a requirement that the vote be taken by yeas and nays and entered in the journal under the Texas Constitution or another rule, including Rule 8, Section 19, relating to the vote required for a bill to have immediate effect.

EXPLANATORY NOTES

Motions to expunge yea and nay votes from the journal have uniformly been held out of order because of the constitutional provision that a record vote shall be taken upon the demand of three members.

HOUSE PRECEDENTS

INTERPRETATION OF CONSTITUTIONAL PROVISIONS AND HOUSE PRACTICES REGARDING SECRET BALLOT ELECTION OF SPEAKER. — Representative P. King raised a point of order against further consideration of Amendment No. 2 under Article III, Section 12, of the Texas Constitution and Rule 5, Section 51, of the temporary House Rules on the grounds that the amendment would not allow for the yeas and nays of the members of the house to be immediately entered in the journal. The chair overruled the point of order, stating in part:

The supreme court has determined that the senate could proceed by secret ballot in In re Texas Senate, 36 S.W. 3d 119 (Tex. 2000). While the court's opinion did not directly address the effect of Article III, Section 12, on the ability to request a secret ballot, the unanimous court made very clear several principles:

First, Article III, Section 41, "clearly gives each House of the Legislature the authority to elect its officers by means other than a viva voce vote." *Id*. at 120-121.;

Second, Article III, Section 41, authorizes each legislative chamber "to elect its officers by secret ballot, should it choose to do so." *Id*. at 120; and

Third, Arguments based on policy concerns for or against a secret ballot are not for the court (or a presiding officer) to consider. The constitution, by allowing but not requiring a secret ballot, commits that choice to this chamber. *Id*. at 121.

Examining the history of these Texas constitutional provisions and the specific provision regarding Article III, Section 41, the practice of the house in actually conducting elections by secret ballot and other methods, and the unanimous Texas Supreme Court decision in In re Texas Senate, which included that court's strong recognition that each legislative chamber's authority under Article III, Section 41, of the Texas Constitution to elect its officers by means the chamber determines is best, the presiding officer is of the opinion that the Texas Constitution leaves solely to the members of this house the authority to determine the manner of election of the speaker of the house, including by a means other than a viva voce vote, including by a secret ballot.

Additionally, the Texas Constitution is clear that arguments based on policy concerns for or against a secret ballot are not for the presiding officer to consider but are rather properly and wisely entrusted to the members of the Texas House. In short, the members must make this determination themselves.

Accordingly, the point of order is respectfully overruled. (80 H.J. Reg. 10 (2007)).

Section 51A. Real-Time Access by Public to Yeas and Nays — The Committee on House Administration shall ensure that:

(1) the recorded yeas and nays are available to the public on the Internet; and

(2) members of the public may view the yeas and nays on the Internet not later than one hour after the time the yeas and nays have been taken and the speaker has declared the result of the vote.

Section 52. Journal Recording of Votes on Any Question — On any question where a record of the yeas and nays has not been ordered, members may have their votes recorded in the journal as "yea" or "nay" by filing such information with the journal clerk before adjournment or recess to another calendar day.

EXPLANATORY NOTES

See Rule 2, Sec. 2(1)(N), under duties of the journal clerk.

Section 53. Changing a Vote — Before the result of a vote has been finally and conclusively pronounced by the chair, but not thereafter, a member may change his or her vote; however, if a member's vote is erroneous, the member shall be allowed to change that vote at a later time provided:

(1) the result of the record vote is not changed thereby;

(2) the request is made known to the house by the chair and permission for the change is granted by unanimous consent; and

(3) a notation is made in the journal that the member's vote was changed.

Section 54. Tie Vote — All matters on which a vote may be taken by the house shall require for adoption a favorable affirmative vote as required by these rules, and in the case of a tie vote, the matter shall be considered lost.

Section 55. Verification of a Yea and Nay Vote — When the result of a yea and nay vote is close, the speaker may on the request of any member order a verification vote, or the speaker may order a verification on his or her own initiative. During verification, no member shall change a vote unless it was erroneously recorded, nor may any member not having voted cast a vote; however, when the clerk errs in reporting the yeas and nays, and correction thereof leaves decisive effect to the speaker's vote, the speaker may exercise the right to vote, even though the result has been announced. A verification shall be called for immediately after the vote is announced. The speaker shall not entertain a request for verification after the house has proceeded to the next question, or after a recess or an adjournment. A vote to recess or adjourn, like any other proposition, may be verified. Only one vote verification can be pending at a time. A verification may be dispensed with by a two-thirds vote.

EXPLANATORY NOTES

On a verification the speaker directs the reading clerk to call first the names of the apparent prevailing side. If, after this call, the result is clearly established, the remainder of the verification is usually dispensed with by unanimous consent or a suspension of the rules. Motions to adjourn or recess are not in order during a verification.

Since the voting machine, which is sometimes subject to error, is used in lieu of roll call with voice response, in order to protect the

members' right to obtain an accurate record vote, minimum use should be made of the practice of dispensing with the verification.

See also Rule 1, Sec. 8, concerning the speaker's right to vote after a verification is completed.

HOUSE PRECEDENTS

1. MOTIONS TO DISPENSE WITH VERIFICATIONS. — In the 52nd Legislature the speaker, Mr. Senterfitt, refused to accept motions to dispense with the verification of votes on certain motions requiring affirmative two-thirds and four-fifths votes. Examples: submission of a constitutional amendment (required vote, two-thirds of the members elected to the house), and introduction of a bill after the first sixty calendar days of a session (required vote, four-fifths of the members present and voting).

2. VERIFICATION OF VOTE TO ADJOURN. — In the 52nd Legislature the speaker, Mr. Senterfitt, allowed the verification of a record vote to adjourn, the request for same having come before he could declare the result of the vote, i.e., that "the house stands adjourned." The machine vote showed an adjournment by a close vote, but the verification reversed the result. The speaker held that the verification of a vote to adjourn should be allowed just as any other, particularly because often so much may depend upon an adjournment vote. He also held similarly in regard to a motion for a recess.

Section 56. Verification of a Registration — The speaker may allow the verification of a registration (as differentiated from a record vote) if in the speaker's opinion there is serious doubt as to the presence of a quorum.

Section 57. Motion for a Call of the House Pending Verification — A motion for a call of the house, and all incidental motions relating to it, shall be in order pending the verification of a vote. These motions must be made before the roll call on verification begins, and it shall not be in order to break into the roll call to make them.

Section 58. Erroneous Announcement of the Result of a Vote —If, by an error of the voting clerk or reading clerk in reporting the yeas and nays from a registration or verification, the speaker announces a result different from that shown by the registration or verification, the status of the question shall be determined by the vote as actually recorded. If the vote is erroneously announced in such a way as to change the true result, all subsequent proceedings in connection therewith shall fail, and the journal shall be amended accordingly.

EXPLANATORY NOTES

Error of the clerk, as used in this section and Sec. 55 of this rule, covers any error in the process of recording a vote and reporting. The most frequent error, aside from the voting machine itself, comes from duplication of members' votes — on the voting machine and from the floor. All record votes are double-checked for errors by the clerk and any significant error is reported to the speaker.

See Sec. 48 of this rule, regarding visiting the clerks' desks during voting.

Rule 6. Order of Business and Calendars

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RULE 6
Order of Business and Calendars

Section 1. Daily Order of Business — (a) When the house convenes on a new legislative day, the daily order of business shall be as follows:

(1) Call to order by speaker.

(2) Registration of members.

(3) Prayer by chaplain, unless the invocation has been given previously on the particular calendar day.

(4) Pledge of allegiance to the United States flag.

(5) Pledge of allegiance to the Texas flag.

(6) Excuses for absence of members and officers.

(7) First reading and reference to committee of bills filed with the chief clerk; and motions to introduce bills, when such motions are required.

(8) Requests to print bills and other papers; requests of committees for further time to consider papers referred to them; and all other routine motions and business not otherwise provided for, all of which shall be undebatable except that the mover and one opponent of the motion shall be allowed three minutes each.

The mover of a routine motion shall be allowed his or her choice of making the opening or the closing speech under this rule. If the house, under a suspension of the rules, extends the time of a member under this rule, such extensions shall be for three minutes. Subsidiary motions that are applicable to routine motions shall be in order, but the makers of such subsidiary motions shall not be entitled to speak thereon in the routine motion period, nor shall the authors of the original routine motions be allowed any additional time because of subsidiary motions.

(9) Unfinished business.

(10) Postponed matters to be laid before the house in accordance with Rule 7, Section 15.

(11) Calendars of the house in their order of priority in accordance with Section 7 of this rule, unless a different order is determined under other provisions of these rules.

(b) When the house reconvenes for the first time on a new calendar day following a recess, the daily order of business shall be:

(1) Call to order by the speaker.

(2) Registration of members.

(3) Prayer by the chaplain.

(4) Pledge of allegiance to the United States flag.

(5) Pledge of allegiance to the Texas flag.

(6) Excuses for absence of members and officers.

(7) Pending business.

(8) Calendars of the house in their order of priority in accordance with Section 7 of this rule, unless a different order is determined under other provisions of these rules.

EXPLANATORY NOTES

1. "Daily order of business" means all the items set out in Subsecs. (a) and (b) of this section, while the regular order or "order of the day," as used in the reconsideration rule, means the several calendars under the 11th main item of Subsec. (a).

2. Due to the heavy increase of routine motions during the latter part of a session, the chair will frequently receive non-controversial routine motions at various times during the day other than at the regular routine motion period, e.g., just before or after a recess or before an adjournment.

3. The author or member in charge of a bill or proposition reached on the calendar in regular order, or by any other route, has no right to yield for himself or for some other member to call up another bill or proposition unless the house permits it by a suspension of the rules.

4. The terms "unfinished business" and "pending business" both apply to a partially completed item of business. The question arises as to just where each fits into the daily order of business. The "ninth" item in Subsec. (a) of this section is set aside for the consideration of "unfinished business," but there is no definite mention of where "pending business" is to be considered.

The test as to whether an incomplete item of business is to be classified as "unfinished" or "pending" is as follows:

a. If an item (bill or joint resolution) is incomplete at the time of an adjournment (terminating that legislative day) it then becomes the "unfinished business" for the next legislative day upon which it can be considered under the rules, and as such must be considered as the "ninth" item in the daily order of business for a legislative day.

b. If an item (bill or joint resolution) is incomplete at the time of a recess, it then becomes the "pending business" when and if the house reconvenes on the same calendar day, or, if the recess occurs at the end of a calendar day, then on the next calendar day it can be considered under the rules, provided, of course, an adjournment does not occur before it is reached on the calendar.

5. When the house reconvenes after a recess on the same calendar day, consideration of the business pending at recess is resumed.

HOUSE PRECEDENTS

1. MOTION TO RECONSIDER VOTE ON RE-REFERRAL OUT OF ORDER UNLESS MADE DURING THE ROUTINE MOTION PERIOD. — During the routine motion period, on the motion of Mr. Celaya, the house re-referred Senate Bill No. 143 from the Committee on Privileges, Suffrage and Elections to the Committee on Highways and Motor Traffic.

Later in the day Mr. Leonard moved to reconsider the vote by which Senate Bill No. 143 was re-referred from the Committee on Privileges, Suffrage and Elections to the Committee on Highways and Motor Traffic.

Mr. Greathouse raised a point of order on further consideration of the motion to reconsider the vote to re-refer, on the ground that since a motion to re-refer a bill is in order only in the routine motion period, then a motion to reconsider a vote to re-refer is not in order at this time.

The speaker, Mr. Stevenson, sustained the point of order. (43 H.J. Reg. 2368 (1933)).

2. MOTION TO PRINT A BILL ON A MINORITY REPORT IS OUT OF ORDER UNLESS MADE DURING THE ROUTINE MOTION PERIOD. — Mr. Greathouse moved that Senate Bill No. 246, reported adversely, with a minority favorable report, be printed.

Mrs. Hughes raised a point of order on further consideration of the motion at this time on the ground that, under the rules of the house, the motion is out of order at this time.

The speaker, Mr. Stevenson, sustained the point of order. (43 H.J. Reg. 2366 (1933)). (See also Rule 4, Sec. 29, on action on bills reported unfavorably.)

3. IN ORDER IN ROUTINE MOTION PERIOD TO RECOMMIT A BILL ALREADY PASSED TO A THIRD READING. — The house had previously passed S.B. 21 to a third reading. At a routine motion period, Mr. Young moved to recommit the bill to the Committee on Highways and Roads. Mr. Sparks raised the point of order that such a motion was out of order.

The chair, Mr. Pierce Johnson, overruled the point of order. (51 H.J. Reg. 3055 (1949)).

Section 2. Special Orders — (a) Any bill, resolution, or other measure may on any day be made a special order for the same day or for a future day of the session by an affirmative vote of two-thirds of the members present. A motion to set a special order shall be subject to the three-minute pro and con debate rule. When once established as a special order, a bill, resolution, or other measure shall be considered from day to day until disposed of; and until it has been disposed of, no further special orders shall be made.

A three-fourths vote of the members present shall be required to suspend the portion of this rule which specifies that only one special order may be made and pending at a time.

(b) After the first eight items under the daily order of business for a legislative day have been passed, a special order shall have precedence when the hour for its consideration has arrived, except as provided in Section 9 of this rule.

EXPLANATORY NOTES

1. If a special order is not taken up for consideration at the time set, the special order character of the bill or resolution is not changed. It remains eligible for consideration at the time for which it has been set or thereafter, provided that other rules covering consideration of classes of business do not become operative so as to defer consideration of the special order further.

2. Privileged matters as described in Rule 13, Sec. 2(b), take precedence over special orders.

3. A house bill may be set as a special order on a senate bill day but it cannot be considered on that day as long as there are any senate bills remaining on the daily calendar.

HOUSE PRECEDENTS

1. WHEN SPECIAL ORDER MOTION IN ORDER. — In the 50th Legislature Speaker W. O. Reed ruled that a motion to set a special order is in order at any time when other business is not pending.

Frequently, when one special order is disposed of, some member will move immediately to set another, and such practice was formally recognized and approved by this ruling.

2. SUSPENSION OF RULES TO CONSIDER OTHER MATTER AHEAD OF A SPECIAL ORDER. — A motion to suspend the rules for the purpose of considering a certain bill ahead of a special order when the time for considering it had arrived, was accepted in the 52nd Legislature by the speaker, Mr. Senterfitt, and the house adopted the motion by the necessary two-thirds vote.

3. TAKING UP A SPECIAL ORDER AFTER THE TIME FOR CONSIDERATION OF IT HAS ARRIVED. — The house had been considering H.B. 49 for some time after the hour set for the consideration of H.B. 662 as a special order.

Mr. McDonald raised the point of order that even though the time set for the consideration of H.B. 662 as a special order had passed it was still the special order and therefore had right of way at that time.

The speaker, Mr. Calvert, sustained the point of order. (45 H.J. Reg. 1587 (1937)).

4. SETTING A BILL AS A SPECIAL ORDER WHEN THE BILL IS BEING CONSIDERED UNDER A CALL OF THE HOUSE. — In the 51st Legislature, the speaker, Mr. Manford, held that when a bill was being considered under a call of the house, a motion to set the bill as a special order for another time was in order.

Section 3. Postponement of a Special Order — A special order may be postponed to a day certain by a two-thirds vote of those present, and when so postponed, shall be considered as disposed of so far as its place as a special order is concerned.

Section 4. Tabled Measures as Special Orders — A bill or resolution laid on the table subject to call may be made a special order.

Section 5. Substitution in Motion for a Special Order — When a motion is pending to set a particular bill or resolution as a special order, it shall not be in order to move as a substitute to set another bill or resolution as a special order. It shall be in order, however, to substitute, by majority vote, a different time for the special order consideration than that given in the original motion.

Section 6. Member's Suspension and Special Order Privileges —If a member moves to set a bill or joint resolution as a special order, or moves to suspend the rules to take up a bill or joint resolution out of its regular order, and the motion prevails, the member shall not have the right to make either of these motions again until every other member has had an opportunity, via either of these motions, to have some bill or joint resolution considered out of its regular order during that session of the legislature. A member shall not lose the suspension privilege if the motion to suspend or set for special order does not prevail.

EXPLANATORY NOTES

1. When a bill is under consideration it may be set as a special order, as elsewhere provided in these rules. Such special order setting is not chargeable to the member making the motion, as might be interpreted from this section.

2. Since the above rule can be suspended by a two-thirds vote, that portion limiting a member to one suspension of the rules to take up a bill out of regular order is meaningless. However, the speaker tries to spread recognitions to make such motions throughout the membership.

HOUSE PRECEDENTS

SUSPENSION OF RULES TO CONSIDER RESOLUTION OUT OF REGULAR ORDER IS NOT CHARGEABLE TO THE MEMBER. — In the 53rd Legislature the speaker, Mr. Senterfitt, held that a successful suspension of the rules to consider a resolution out of regular order did not come under the terms of the above section, i.e., was not chargeable to the member.

Section 7. System of Calendars — (a) Legislative business of the house shall be controlled by a system of calendars, consisting of the following:

(1) EMERGENCY CALENDAR, on which shall appear bills considered to be of such pressing and imperative import as to demand immediate action, bills to raise revenue and levy taxes, and the general appropriations bill. A bill submitted as an emergency matter by the governor may also be placed on this calendar.

(2) MAJOR STATE CALENDAR, on which shall appear bills of statewide effect, not emergency in nature, which establish or change state policy in a major field of governmental activity and which will have a major impact in application throughout the state without regard to class, area, or other limiting factors.

(3) CONSTITUTIONAL AMENDMENTS CALENDAR, on which shall appear joint resolutions proposing amendments to the Texas Constitution, joint resolutions proposing the ratification of amendments to the Constitution of the United States, and joint resolutions applying to Congress for a convention to amend the Constitution of the United States.

(4) GENERAL STATE CALENDAR, on which shall appear bills of statewide effect, not emergency in nature, which establish or change state law and which have application to all areas but are limited in legal effect by classification or other factors which minimize the impact to something less than major state policy, and bills, not emergency in nature, which are not on the local, consent, and resolutions calendar.

(5) LOCAL, CONSENT, AND RESOLUTIONS CALENDAR, on which shall appear bills, house resolutions, and concurrent resolutions, not emergency in nature, regardless of extent and scope, on which there is such general agreement as to render improbable any opposition to the consideration and passage thereof, and which have been recommended by the appropriate standing committee for placement on the local, consent, and resolutions calendar by the Committee on Local and Consent Calendars.

(6) RESOLUTIONS CALENDAR, on which shall appear house resolutions and concurrent resolutions, not emergency in nature and not privileged.

(7) CONGRATULATORY AND MEMORIAL RESOLUTIONS CALENDAR, on which shall appear congratulatory and memorial resolutions whose sole intent is to congratulate, memorialize, or otherwise express concern or commendation. The Committee on Rules and Resolutions may provide separate categories for congratulatory and memorial resolutions.

(b) A calendars committee shall strictly construe and the speaker shall strictly enforce this system of calendars.

Section 8. Senate Bill Calendars — (a) Senate bills and resolutions pending in the house shall follow the same procedure with regard to calendars as house bills and resolutions, but separate calendars shall be maintained for senate bills and resolutions, and consideration of them on senate bill days shall have priority in the manner and order specified in this rule.

(b) No other business shall be considered on days devoted to the consideration of senate bills when there remain any bills on any of the senate calendars, except with the consent of the senate. When all senate calendars are clear, the house may proceed to consideration of house calendars on senate bill days.

Section 9. Senate Bill Days — (a) On calendar Wednesday and on calendar Thursday of each week, only senate bills and senate resolutions shall be taken up and considered, until disposed of. Senate bills and senate resolutions shall be considered in the order prescribed in Section 7 of this rule on separate senate calendars prepared by the Committee on Calendars. In case a senate bill or senate resolution is pending at adjournment on calendar Thursday, it shall go over to the succeeding calendar Wednesday as unfinished business.

(b) Precedence given in Rule 8 to certain classes of bills during the first 60 calendar days of a regular session shall also apply to senate bills on senate bill days.

EXPLANATORY NOTES

1. This section does not preclude the consideration of conference committee reports on house bills on senate bill days.
2. A house biennial appropriation bill does not have priority on senate bill days, unless permission for consideration has been given by the senate.

Section 10. Consideration of Senate Bill on Same Subject —When any house bill is reached on the calendar or is before the house for consideration, it shall be the duty of the speaker to give the place on the calendar of the house bill to any senate bill containing the same subject that has been referred to and reported from a committee of the house and to lay the senate bill before the house, to be considered in lieu of the house bill.

EXPLANATORY NOTES

Such senate bill must be at the same parliamentary stage as the house bill, i.e., 2nd reading or 3rd reading.

Section 11. Periods for Consideration of Congratulatory and Memorial Calendars — As the volume of legislation shall warrant, the chair of the Committee on Rules and Resolutions shall move to designate periods for the consideration of congratulatory and memorial calendars. Each such motion shall require a two-thirds vote for its adoption. In each instance, the Committee on Rules and Resolutions shall prepare and distribute to each member a printed calendar at least 24 hours in advance of the hour set for consideration. No memorial or congratulatory resolution will be heard by the full house without having first been approved, at least 24 hours in advance, by a majority of the membership of the Committee on Rules and Resolutions, in accordance with Rule 4, Section 16. It shall not be necessary for the Committee on Rules and Resolutions to report a memorial or congratulatory resolution from committee in order to place the resolution on a congratulatory and memorial calendar. If the Committee on Rules and Resolutions determines that a resolution is not eligible for placement on the congratulatory and memorial calendar the measure shall be sent to the Committee on Calendars for further action. A congratulatory and memorial calendar will contain the resolution number, the author's name, and a brief description of the intent of the resolution. On the congratulatory and memorial calendar, congratulatory resolutions may be listed separately from memorial resolutions. Once a printed calendar is distributed, no additional resolutions will be added to it, and the requirements of this section shall not be subject to suspension.

Section 12. Procedure for Consideration of Congratulatory and Memorial Calendars — During the consideration of a congratulatory and memorial calendar, resolutions shall not be read in full unless they pertain to members or former members of the legislature, or unless the intended recipient of the resolution is present on the house floor or in the gallery. All other such resolutions shall be read only by number, type of resolution, and name of the person or persons designated in the resolutions. Members shall notify the chair, in advance of consideration of the calendar, of any resolutions that will be required to be read in full. In addition, the following procedures shall be observed:

(1) The chair shall recognize the reading clerk to read the resolutions within each category on the calendar only by number, type of resolution, author or sponsor, and name of the person or persons designated in the resolutions, except for those resolutions that have been withdrawn or that are required to be read in full. The resolutions read by the clerk shall then be adopted in one motion for each category.

(2) Subsequent to the adoption of the resolutions read by the clerk, the chair shall proceed to lay before the house the resolutions on the calendar that are required to be read in full. Each such resolution shall be read and adopted individually.

(3) If it develops that any resolution on the congratulatory and memorial calendar does not belong on that calendar, the chair shall withdraw the resolution from further consideration, remove it from the calendar, and refer it to the appropriate calendars committee for placement on the proper calendar.

Section 13. Periods for Consideration of Local, Consent, and Resolutions Calendars — As the volume of legislation shall warrant, the chair of the Committee on Local and Consent Calendars shall move to designate periods for the consideration of local, consent, and resolutions calendars. Each such motion shall require a two-thirds vote for its adoption. In each instance, the Committee on Local and Consent Calendars shall prepare and distribute to each member a printed calendar at least 48 hours in advance of the hour set for consideration. Once a printed calendar is distributed, no additional bills or resolutions will be added to it. This requirement can be suspended only by unanimous consent. No local, consent, and resolutions calendar may be considered by the house if it is determined that the rules of the house were not complied with by the Committee on Local and Consent Calendars in preparing that calendar.

Section 14. Procedure for Consideration of Local, Consent, and Resolutions Calendars — During the consideration of a local, consent, and resolutions calendar set by the Committee on Local and Consent Calendars the following procedures shall be observed:

(1) The chair shall allow the sponsor of each bill or resolution three minutes to explain the measure, and the time shall not be extended except by unanimous consent of the house. This rule shall have precedence over all other rules limiting time for debate.

(2) If it develops that any bill or resolution on a local, consent, and resolutions calendar is to be contested on the floor of the house, the chair shall withdraw the bill or resolution from further consideration and remove it from the calendar.

(3) Any bill or resolution on a local, consent, and resolutions calendar shall be considered contested if notice is given by five or more members that they intend to oppose the bill or resolution, either by a raising of hands or the delivery of written notice to the chair.

(4) Any bill or resolution on a local, consent, and resolutions calendar shall be considered contested if debate exceeds 10 minutes. The chair shall strictly enforce this time limit and automatically withdraw the bill from further consideration if the time limit herein imposed is exceeded.

EXPLANATORY NOTES

See Rule 11, Sec. 4, on amendments to bills and resolutions on local, consent, and resolutions calendars.

Section 15. Order of Consideration of Calendars — Except for local, consent, and resolutions calendars and congratulatory and memorial calendars, consideration of calendars shall be in the order named in Section 7 of this rule, subject to any exceptions ordered by the Committee on Calendars. With respect to a particular calendar, bills and resolutions on third reading shall have precedence over bills and resolutions on second reading.

Section 16. Daily Calendars, Supplemental Calendars, and Lists of Items Eligible for Consideration — (a) Calendars shall be printed daily

when the house is in session. A printed copy of each calendar shall be placed in the newspaper mailbox of each member at least 36 hours if convened in regular session and 24 hours if convened in special session before the calendar may be considered by the house. Deviations from the calendars as printed and distributed shall not be permitted except that the Committee on Calendars shall be authorized to print and distribute, not later than two hours before the house convenes, a supplemental daily house calendar, on which shall appear:

(1) bills or resolutions which were passed to third reading on the previous legislative day;

(2) bills or resolutions which appeared on the Daily House Calendar for a previous calendar day which were not reached for floor consideration;

(3) postponed business from a previous calendar day; and

(4) notice to take from the table a bill or resolution which was laid on the table subject to call on a previous legislative day.

In addition to the items listed above, the bills and resolutions from a daily house calendar that will be eligible for consideration may be incorporated, in their proper order as determined by these rules, into the supplemental daily house calendar.

(b) In addition, when the volume of legislation shall warrant, and upon request of the speaker, the chief clerk shall have printed and distributed to the members, a list of Items Eligible for Consideration, on which shall appear only:

(1) house bills with senate amendments that are eligible for consideration under Rule 13, Section 5;

(2) senate bills for which the senate has requested appointment of a conference committee; and

(3) conference committee reports that are eligible for consideration under Rule 13, Section 10.

(c) A copy of the list of Items Eligible for Consideration must be placed in the newspaper mailbox of each member at least six hours before the list may be considered by the house.

(d) The time at which the copies of a calendar or list are placed in the newspaper mailboxes of the members shall be time-stamped on the originals of the calendar or list.

(e) No house calendar shall be eligible for consideration if it is determined that the rules of the house were not complied with by the Committee on Calendars in preparing that calendar.

(f) If the Committee on Calendars has proposed a rule for floor consideration of a bill or resolution that is eligible to be placed on a calendar of the daily house calendar, the rule must be printed and a copy distributed to each member. If the bill or resolution to which the rule will apply has already been placed on a calendar of the daily house calendar, a copy of the rule must be attached to the printed calendar on which the bill or resolution appears. The speaker shall lay a proposed rule before the house prior to the consideration of the bill or resolution to which the rule will apply. The rule may be laid before the house anytime after a copy of the rule has been distributed to each member

in accordance with this subsection. The rule shall not be subject to amendment, but to be effective, the rule must be approved by the house by an affirmative vote of a majority of those members present and voting. If approved by the house in accordance with this subsection, the rule will be effective for the consideration of the bill or resolution on both second and third readings.

HOUSE PRECEDENTS

EXAMPLE OF REMAINDER OF CALENDAR BEING INELIGIBLE FOR CONSIDERATION BASED ON VIOLATION OF RULES IN SETTING CALENDAR. — On Monday, May 26, 1997, the day before the last day for the house to consider senate bills and joint resolutions on second reading, the house was considering S.B. 1500 when Ms. Wohlgemuth raised the point of order under then Rule 4, Section 11(b), and Rule 6, Section 16(e), of the House Rules on the grounds that the location of the formal meeting of the Calendars Committee in which the bill was placed on the calendar was not announced. A review of the records of the house indicated that the chair of the Calendars Committee had announced the time of the meeting, but had failed to announce the location of the meeting. It was therefore determined that the committee had set the calendar at a meeting for which proper notice had not been given.

The speaker, Mr. Laney, sustained the point of order. (75 H.J. Reg. 3810 (1997)). The point of order, although directed at a particular bill, by its terms and the circumstances surrounding the placement of S.B. 1500 on the calendar, addressed the eligibility of the calendar itself, because the entire calendar was set by a single vote on a single motion at the improper meeting. Accordingly, when the point of order was sustained, under the express provisions of the rules, further consideration of the remainder of the bills on that calendar was not in order.

Section 17. Position on a Calendar — Once a bill or resolution is placed on its appropriate calendar under these rules, and has appeared on a house calendar, as printed and distributed to all members, the bill shall retain its relative position on the calendar until reached for floor consideration, and the calendars committee with jurisdiction over the bill or resolution shall have no authority to place other bills on the calendar ahead of that bill, but all additions to the calendar shall appear subsequent to the bill.

Section 18. Requirements for Placement on a Calendar —Except as provided in Section 11 of this rule as it relates to congratulatory and memorial resolutions, no bill or resolution shall be placed on a calendar until:

(1) it has been referred to and reported from its appropriate standing committee by favorable committee action; or

(2) it is ordered printed on minority report or after a committee has reported its inability to recommend a course of action.

Section 19. Referral to Calendars Committees — All bills and resolutions, on being reported from committee, shall be referred immediately to the committee coordinator for printing and then to the appropriate calendars committee for placement on the appropriate calendar.

Section 20. Time Limit for Vote to Place on a Calendar —Within 30 calendar days after a bill or resolution has been referred to the appropriate calendars committee, the committee must vote on whether to place the bill or resolution on one of the calendars of the daily house calendar or the local, consent, and resolutions calendar, as applicable. A vote against placement of the bill or resolution on a calendar does not preclude a calendars committee from later voting in favor of placement of the bill or resolution on a calendar.

Section 21. Motion to Place on a Calendar — (a) When a bill or resolution has been in the appropriate calendars committee for 30 calendar days, exclusive of the calendar day on which it was referred, awaiting placement on one of the calendars of the daily house calendar or on the local, consent, and resolutions calendar, it shall be in order for a member to move that the bill or resolution be placed on a specific calendar of the daily house calendar or on the local, consent, and resolutions calendar without action by the committee. This motion must be seconded by five members and shall require a majority vote for adoption.

(b) A motion to place a bill or resolution on a specific calendar of the daily house calendar or on the local, consent, and resolutions calendar is not a privileged motion and must be made during the routine motion period unless made under a suspension of the rules.

Section 22. Request for Placement on Local, Consent, and Resolutions Calendar — No bill or resolution shall be considered for placement on the local, consent, and resolutions calendar by the Committee on Local and Consent Calendars unless a request for that placement has been made to the chair of the standing committee from which the bill or resolution was reported and unless the committee report of the standing committee recommends that the bill or resolution be sent to the Committee on Local and Consent Calendars for placement on the local, consent, and resolutions calendar. The recommendation of the standing committee shall be advisory only, and the Committee on Local and Consent Calendars shall have final authority to determine whether or not a bill or resolution shall be placed on the local, consent, and resolutions calendar. If the Committee on Local and Consent Calendars determines that the bill or resolution is not eligible for placement on the local, consent, and resolutions calendar, the measure shall be sent to the Committee on Calendars for further action.

Section 23. Qualifications for Placement on the Local, Consent, and Resolutions Calendar — (a) No bill defined as a local bill by Rule 8, Section 10(c), shall be placed on the local, consent, and resolutions calendar unless:

(1) evidence of publication of notice in compliance with the Texas Constitution and these rules is filed with the Committee on Local and Consent Calendars; and

(2) it has been recommended unanimously by the present and voting members of the committee from which it was reported that the bill be sent to the Committee on Local and Consent Calendars for placement on the local, consent, and resolutions calendar.

(b) No other bill or resolution shall be placed on the local, consent, and resolutions calendar unless it has been recommended unanimously by the present and voting members of the committee from which it was reported that the bill be sent to the Committee on Local and Consent Calendars for placement on the local, consent, and resolutions calendar.

(c) No bill or resolution shall be placed on the local, consent, and resolutions calendar that:

(1) directly or indirectly prevents from being available for purposes of funding state government generally any money that under existing law would otherwise be available for that purpose, including a bill that transfers or diverts money in the state treasury from the general revenue fund to another fund; or

(2) authorizes or requires the expenditure or diversion of state funds for any purpose, as determined by a fiscal note attached to the bill.

Section 24. Replacement of Contested Bills and Resolutions — A bill or resolution once removed from the local, consent, and resolutions calendar shall be returned to the Committee on Local and Consent Calendars for further action. The Committee on Local and Consent Calendars, if it feels such action is warranted, may again place the bill or resolution on the local, consent, and resolutions calendar, provided, however, that if the bill or resolution is not placed on the next local, consent, and resolutions calendar set by the Committee on Local and Consent Calendars, the bill or resolution shall immediately be referred to the Committee on Calendars for further action. If the bill or resolution is then removed from the calendar a second time by being contested on the floor of the house, the bill or resolution shall not again be placed on the local, consent, and resolutions calendar by the Committee on Local and Consent Calendars during that session of the legislature but shall be returned to the Committee on Calendars for further action.

EXPLANATORY NOTES

1. The portion of this section referring to a bill removed from a local or consent calendar is not enforced strictly because frequently a bill is not fully understood. Sometimes a simple amendment may cure all objections. In either case, a good bill may be saved by allowing it to be placed on a local or consent calendar again. The Committee on Local and Consent Calendars can easily control its calendar so that truly controversial bills do not appear twice.

2. Occasionally, opposition to a bill develops after it has passed to engrossment and before final passage. It has become the custom for a presiding officer to withdraw such a bill from further consideration at such time if it is objected to by five or more members.

3. Occasionally, a local and consent calendar is set for a time to which the house later adjourns. When convening time arises, it is currently the practice to have the usual registration of members, prayer by the chaplain, and excuses for absences of members. Then the local and consent calendar is taken up. When it is completed, the remaining items in the daily order of business are covered in order.

HOUSE PRECEDENTS

PRIVILEGED MATTERS HAVE PRIORITY OVER LOCAL AND CONSENT CALENDARS. — In the 56th Legislature, Regular Session, the speaker, Mr. Carr, ruled that a pending privileged matter (concurring in senate amendments) had precedence for consideration over a local and consent calendar which had been set for that particular time.

Section 25. Discretion in Placement on Calendars — Subject to the limitations contained in this rule, the Committee on Calendars shall have full authority to make placements on calendars in whatever order is necessary and desirable under the circumstances then existing, except that bills on third reading on a particular calendar shall have precedence over bills on second reading on the same calendar. It is the intent of the calendar system to give the Committee on Calendars wide discretion to insure adequate consideration by the house of important legislation.

Rule 7. Motions

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RULE 7
Motions

Chapter A. General Motions

Section 1. Motions Decided Without Debate — The following motions, in addition to any elsewhere provided herein, shall be decided without debate, except as otherwise provided in these rules:

(1) to adjourn;
(2) to lay on the table;
(3) to lay on the table subject to call;
(4) to suspend the rule as to the time for introduction of bills;
(5) to order a call of the house, and all motions incidental thereto;
(6) an appeal by a member called to order;
(7) on questions relating to priority of business;
(8) to amend the caption of a bill or resolution;
(9) to extend the time of a member speaking under the previous question or to allow a member who has the right to speak after the previous question is ordered to yield the time, or a part of it, to another;
(10) to reconsider and table.

Section 2. Motions Subject to Debate — The speaker shall permit the mover and one opponent of the motion three minutes each during which to debate the following motions without debating the merits of the bill, resolution, or other matter, and the mover of the motion may elect to either open the debate or close the debate, but the mover's time may not be divided:

(1) to suspend the regular order of business and take up some measure out of its regular order;
(2) to instruct a committee to report a certain bill or resolution;
(3) to rerefer a bill or resolution from one committee to another;
(4) to place a bill or resolution on a specific calendar without action by the appropriate calendars committee;
(5) to take up a bill or resolution laid on the table subject to call;
(6) to set a special order;
(7) to suspend the rules;
(8) to suspend the constitutional rule requiring bills to be read on three several days;
(9) to pass a resolution suspending the joint rules;
(10) to order the previous question;
(11) to order the limiting of amendments to a bill or resolution;
(12) to print documents, reports, or other material in the journal;
(13) to take any other action required or permitted during the routine motion period by Rule 6, Section 1;
(14) to divide the question.

EXPLANATORY NOTES

1. See Rule 6, Sec. 1(a)(8), for three-minute debate rule as applied to routine motions in the daily order of business.

2. Recent practice has allowed a first extension of time (three minutes) of a member speaking under the three-minute debate rule by majority vote, and any further extension by unanimous consent. Such practice has been dictated for general debate by Rule 5, Sec. 28. This is not the case, however, at the routine motion period.

3. See Rule 5, Sec. 28, concerning extension of debate under three-minute debate rule during the last ten calendar days of a regular session and the last five days of a special session.

HOUSE PRECEDENTS

DEBATE ON RECONSIDERED MATTERS. — In the 52nd Legislature, the speaker, Mr. Senterfitt, held that if the vote on a motion to which the three-minute debate rule is applicable had been reconsidered, the question was before the house anew, and the three-minute debate rule was again operative.

Section 3. Motions Allowed During Debate — When a question is under debate, the following motions, and none other, shall be in order, and such motions shall have precedence in the following order:

(1) to adjourn;
(2) to take recess;
(3) to lay on the table;
(4) to lay on the table subject to call;
(5) for the previous question;
(6) to postpone to a day certain;
(7) to commit, recommit, refer, or rerefer;
(8) to amend by striking out the enacting or resolving clause, which, if carried, shall have the effect of defeating the bill or resolution;
(9) to amend;
(10) to postpone indefinitely.

EXPLANATORY NOTES

1. This rule gives the order of precedence of motions "when a question is under debate," which means, of course, that an original or main motion is pending, e.g., the passage of a resolution. Illustrating the significance of the above order of listing, if a motion "to amend" is made and pending, the motion "to commit" can be made, and, if no other motion is made, would be voted upon first because it has "precedence" according to the listing. However, the motion "to lay on the table," for example, could have been made to the motion to commit and the vote would have come first on that motion, it having higher precedence in the listing. To carry the pattern one step farther, while the motion to table the motion to commit is pending, motions "to recess" or "to adjourn" can be made and voted upon first because they are of still higher precedence.

2. See Rule 11, Sec. 7, relating to general classification and precedence of amendments.

3. For many years it has been the custom for the house to "stand at ease," i.e., the house remains technically in session but without continuing transaction of business. This state of inactivity is initiated and terminated by the chair without a motion from the floor. There are many times when the house must stand at ease for one reason or another. Such is also the case in joint sessions.

HOUSE PRECEDENTS

1. PRECEDENCE OF MOTIONS. — In the 52nd Legislature the speaker, Mr. Senterfitt, ruled that it is in order to have some two or more of the above listed motions made and pending at the same time, but that they must be voted upon in the order of their precedence as established above, or as prescribed in other rules specifically covering the several motions. For example, a motion that a proposition be laid on the table subject to call could be pending and a motion made to postpone to a day certain, but the vote must be taken first upon the former motion which is of higher rank in the order of precedence. There are obviously many other similar combinations of two or more motions possible under the rules.

2. NOT IN ORDER TO POSTPONE INDEFINITELY A MATTER NOT BEFORE THE HOUSE UNLESS UNDER A MOTION TO SUSPEND THE RULES. — The house was considering a resolution. Mr. Thornton raised the point of order that one of the resolving clauses sought, without a direct suspension of the rules, to postpone indefinitely consideration of a bill which was not before the house and was therefore out of order.

The speaker, Mr. Calvert, sustained the point of order and ruled out of order the resolving clause in question, which left, however, other substantive propositions. (45 H.J. Reg. 210 (1937)).

Section 4. Statement or Reading of a Motion — When a motion has been made, the speaker shall state it, or if it is in writing, order it read by the clerk; and it shall then be in possession of the house.

Section 5. Entry of Motions in Journal — Every motion made to the house and entertained by the speaker shall be reduced to writing on the demand of any member, and shall be entered on the journal with the name of the member making it.

Section 6. Withdrawal of a Motion — A motion may be withdrawn by the mover at any time before a decision on the motion, even though an amendment may have been offered and is pending. It cannot be withdrawn, however, if the motion has been amended. After the previous question has been ordered, a motion can be withdrawn only by unanimous consent.

CONGRESSIONAL PRECEDENTS

WITHDRAWAL OF MOTIONS. — A motion may be withdrawn although an amendment may have been offered and be pending (5 H.P. 5347). A "decision" which prevents withdrawal of a motion may consist of the ordering of the previous question, or the refusal to lay on the table (5 H.P. 5351, 5352). A member having a right to withdraw a motion before a decision thereon has the resulting power to modify it (5 H.P. 5358). A motion being withdrawn, all proceedings on an appeal arising from a point of order related to it fell thereby (5 H.P. 5356).

Section 7. Motions to Adjourn or Recess — A motion to adjourn or recess shall always be in order, except:

(1) when the house is voting on another motion;

(2) when the previous question has been ordered and before the final vote on the main question, unless a roll call shows the absence of a quorum;

(3) when a member entitled to the floor has not yielded for that purpose; or

(4) when no business has been transacted since a motion to adjourn or recess has been defeated.

EXPLANATORY NOTES

1. See also Sec. 35 of this rule, and annotations following.

2. The above item (4) obviously could not apply to the situation under a call of the house, where no quorum is present and where there are no other eligible motions except to adjourn. In actual practice one or two attempts to adjourn are usually enough to indicate clearly the attitude of the house.

3. The vote by which a motion to adjourn is carried or lost is not subject to reconsideration.

4. A parliamentary inquiry is not considered "business" under the above section.

5. On May 19, 1947, upon request of the House Committee on Appropriations, Attorney General Price Daniel ruled as follows on the meaning of Sec. 17 of Art. 3 of the constitution: (Summary of opinion only quoted):

"Section 17, Article 3, of the Texas Constitution, prohibiting adjournment of either House for more than three days without consent of the other House. In calculating 'three days,' the day of adjournment or the day of reconvening must be counted. If a Sunday is within the period of adjournment, it should not be counted. Therefore, either House may adjourn from Thursday to Monday without the consent of the other, since the period is not for more than three days, excluding Sunday.

"A 'blanket' consent of both Houses for adjournment of more than three days at any time during the session would violate Section 17, Article 3, of the Texas Constitution, since it contemplates separate and specific consent of the other House each time one House desires to adjourn for more than three days."

HOUSE PRECEDENTS

1. MOTIONS TO ADJOURN OR RECESS NOT IN ORDER DURING REGISTRATION OR VERIFICATION. — In the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled that motions to adjourn or recess are not in order while a registration for any purpose or a vote verification is under way.

2. AN INTERPRETATION OF ITEM (4) ABOVE. — Mr. Isaacks moved to adjourn. On a record vote the house refused to adjourn but the absence of a quorum was evident.

Mr. Isaacks then renewed his motion to adjourn, whereupon Mr. Abington raised the point of order that no business had been

transacted, as required by the rule, since a motion to adjourn had been defeated.

The speaker, Mr. Senterfitt, overruled the point of order, holding that the revelation of the absence of a quorum had in itself moved the proceedings to a new stage. (52 H.J. Reg. 227 (1951)).

3. HELD THAT SPEAKING IS "BUSINESS." — Mr. Jenkins resumed the floor, addressing the house on the amendments pending to House Bill No. 20.

During the address by Mr. Jenkins, he yielded the floor. Mr. Peeler moved that the house take a recess to 8 p.m. that day, whereupon Mr. Mears raised a point of order on the motion to take a recess, on the ground that it should not be entertained for the reason that no business had been transacted since a similar motion had been rejected by the house.

Overruled. (30 H.J. Reg. 1163 (1907)).

4. THE HOUSE MAY ADJOURN FROM SATURDAY TO MONDAY WITHOUT A QUORUM. — The house met at 10 o'clock a.m., pursuant to adjournment, and was called to order by Mr. Sanders. The roll was called and the chair announced that there was not a quorum present.

Mr. Tillotson moved that the house adjourn until 10 o'clock a.m. next Monday.

The motion of Mr. Tillotson prevailed, and the house, accordingly, at 10:04 o'clock a.m., adjourned until 10 o'clock a.m. Monday. (41st 2nd C.S.) (This was in accord with the long established practice of the house.)

5. CHAIR IS REQUIRED TO ANNOUNCE VOTE AND DECLARE RESULT WHEN VOTE BECOMES KNOWN OFFICIALLY, AND FINALLY, REGARDLESS OF EFFECT. PRINCIPLE APPLIED TO MOTION TO ADJOURN. — Mr. McIlhany moved that the house adjourn until 12:10 p.m. today, April 1. The yeas and nays were demanded. When the speaker announced that the motion had carried by a vote of 67 to 65, a verification was requested and granted. The verification showed 66 to 65 for adjournment, and the speaker so informed the house; but, before he could declare the house adjourned, Mr. McDaniel raised the point of order that the time to which the house would have adjourned under the motion had passed and that the action was, therefore, null and void.

The speaker, Mr. Senterfitt, overruled the point of order, explaining that whenever the will of the house on a motion finally becomes known the chair then has no choice but to announce the vote and declare the result accordingly. He did so, and then immediately called the house to order on the new legislative day. (53 H.J. 1 C.S. 223 (1953)).

6. CONCURRENT RESOLUTION GRANTING PERMISSION TO ADJOURN IS SUFFICIENT AUTHORITY TO RECESS. — In the 52nd Legislature the speaker, Mr. Senterfitt, ruled that a concurrent resolution granting each house permission to adjourn "from Wednesday to Monday" was sufficient authority to permit a recess for the same period.

CONGRESSIONAL PRECEDENTS

THE MOTION TO ADJOURN. — While the motion to adjourn takes precedence of other motions, yet it may not be put while the house is voting on another motion or while a member has the floor in debate (5

H.P. 5360). A motion to adjourn may not interrupt the call of the yeas and nays (5 H.P. 6053). There must be intervening business before a motion to adjourn may be repeated (5 H.P. 5373), and such "business" may be debated (5 H.P. 5374), a decision of the chair on a question of order (5 H.P. 5378), reception of a message (5 H.P. 5375), (or the making of recognized motions). It is not in order to preface a motion to adjourn with preamble or argument touching reason or purpose of the proposed adjournment (8 C.P. 2647). After the motion to adjourn is made, neither another motion nor an appeal may intervene before the taking of the vote (5 H.P. 5361). A smaller number than a quorum may adjourn from day to day and compel the attendance of absent members (4 H.P. 2980). A motion to reconsider a vote whereby the house has refused to adjourn is not in order (5 H.P. 5620-5622).

ADJOURNING FOR MORE THAN THREE DAYS. — A concurrent resolution providing for an adjournment of the two houses for more than three days is privileged (5 H.P. 6680). The constitutional adjournment of "more than three days" must take into account either the day of adjourning or the day of meeting (5 H.P. 6673, 6674).

Section 8. Consideration of Several Motions to Adjourn or Recess — When several motions to recess or adjourn are made at the same period, the motion to adjourn carrying the shortest time shall be put first, then the next shortest time, and in that order until a motion to adjourn has been adopted or until all have been voted on and lost; and then the same procedure shall be followed for motions to recess.

Section 9. Withdrawal or Addition of a Motion to Adjourn or Recess — A motion to adjourn or recess may not be withdrawn when it is one of a series upon which voting has commenced, nor may an additional motion to adjourn or recess be made when voting has commenced on a series of such motions.

Section 10. Reconsideration of Vote to Adjourn or Recess — The vote by which a motion to adjourn or recess is carried or lost shall not be subject to a motion to reconsider.

Section 11. Adjourning With Less Than a Quorum — A smaller number of members than a quorum may adjourn from day to day, and may compel the attendance of absent members.

Section 12. Motion to Table — A motion to lay on the table, if carried, shall have the effect of killing the bill, resolution, amendment, or other immediate proposition to which it was applied. Such a motion shall not be debatable, but the mover of the proposition to be tabled, or the member reporting it from committee, shall be allowed to close the debate after the motion to table is made and before it is put to a vote. When a motion to table is made to a debatable main motion, the main motion mover shall be allowed 20 minutes to close the debate, whereas the movers of other debatable motions sought to be tabled shall be allowed only 10 minutes to close. The vote by which a motion to table is carried or lost cannot be reconsidered. After the previous question has been ordered, a motion to table is not in order. The provisions of this section do not apply to motions to "lay on the table subject to call"; however, a motion to

lay on the table subject to call cannot be made after the previous question has been ordered.

EXPLANATORY NOTES

1. See Sec. 42 of this rule, and annotation following dealing with the double motion to reconsider and table.

2. With the exception of amendments offered to a bill on third reading, the motion to table is not usually applied to motions requiring a two-thirds or four-fifths vote for adoption. For example, in the 50th Legislature Speaker W. O. Reed ruled that this motion could not be applied to motions such as: "To suspend the constitutional rule requiring bills to be read on three several days," "To suspend the rule relating to the introduction of bills after the first sixty calendar days of a regular session," "To suspend the rules for a stated purpose," "To set a special order," etc.

3. Due to the precedence of motions set out in Sec. 3 of this rule, the motion to table can be applied to the motion that a proposition be laid on the table subject to call.

HOUSE PRECEDENTS

ONLY ONE MOTION TO TABLE MAY BE PENDING AT A TIME. — During the regular session of the 49th Legislature, an amendment had been offered to a bill, and a motion to table that amendment was pending.

A motion to table the bill was then made and insisted upon because such a motion has high precedence, as shown in Sec. 3 of Rule XII (now Sec. 3 of this rule) and would ordinarily be received and considered even though an amendment is pending. The speaker, Mr. Gilmer, held that the motion to table the pending amendment must be considered first, and after that the motion to table the bill proper was accepted.

CONGRESSIONAL PRECEDENTS

THE MOTION TO LAY ON THE TABLE. — The motion to lay on the table is used in the house for a final, adverse disposition of a matter without debate (5 H.P. 5389). It has the precedence given in the rule but may not be made after the previous question is ordered (5 H.P. 5415, 5422). When a bill is laid on the table, pending motions connected therewith go to the table also (5 H.P. 5426, 5427). The motion to table may not be amended (5 H.P. 5754) or applied to motions for the previous question (5 H.P. 5410-5411), or to suspend the rules (5 H.P. 5405). The motion to lay on the table may be repeated after intervening business (5 H.P. 5398-5400); but the ordering of the previous question (5 H.P. 5709), a call of the house (5 H.P. 5401), or a decision of a question of order have been held not to be such intervening business, it being essential that the pending matter be carried to a new stage in order to permit a repetition of the motion (5 H.P. 5709).

Section 13. Matters Tabled Subject to Call — When a bill, resolution, or other matter is pending before the house, it may be laid on the table subject to call, and one legislative day's notice, as printed on the Supplemental House Calendar, must be given before the proposition can be taken from the table, unless it is on the same legislative day, in which case it can be taken from

the table at any time except when there is another matter pending before the house. A bill, resolution, or other matter can be taken from the table only by a majority vote of the house. When a special order is pending, a motion to take a proposition from the table cannot be made unless the proposition is a privileged matter.

EXPLANATORY NOTES

1. This motion is applicable to main motions only, e.g., the passage of a bill or resolution, or adoption of a report, and is not applicable to any of the motions listed in Sec. 3 of this rule.
2. "Pending before the house" as used above means the matter then under consideration by the house, i.e., the pending business. If the "one legislative day's notice" as required in the above section has been given, and for any reason the member making the motion does not get an opportunity during that legislative day for a vote to take the matter from the table, the notice must be repeated so as to give the legislative day's notice. This is necessary to keep the house on notice as to when the particular bill or resolution is to be considered.
3. Since the motion to lay on the table subject to call is classified as a non-debatable motion, if such a motion is made and the previous question then ordered, the mover of such motion obviously does not have the right "to close under the previous question."

Section 14. Motion to Postpone — A motion to postpone to a day certain may be amended and is debatable within narrow limits, but the merits of the proposition sought to be postponed cannot be debated. A motion to postpone indefinitely opens to debate the entire proposition to which it applies.

Section 15. Postponed Matters — (a) A bill or proposition postponed to a day certain shall be laid before the house at the time on the calendar day to which it was postponed, provided it is otherwise eligible under the rules and no other business is then pending. If business is pending, the postponed matter shall be deferred until the pending business is disposed of without prejudice otherwise to its right of priority. When a privileged matter is postponed to a particular time, and that time arrives, the matter, still retaining its privileged nature, shall be taken up even though another matter is pending.

(b) Consideration of a bill postponed to a day certain from the local, consent, and resolutions calendar is governed on second reading by the rules applicable to the calendar from which it was postponed to the extent practicable.

EXPLANATORY NOTES

1. A resolution is interpreted as a "proposition" under the above.
2. One privileged motion cannot be taken up while another privileged motion is pending.
3. A motion to reconsider the vote on a privileged motion is likewise privileged.

CONGRESSIONAL PRECEDENTS

THE MOTIONS TO POSTPONE. — The motions to postpone must apply to the whole and not a part of the pending proposition (5 H.P. 5306). It may not be applied to the motion to refer (5 H.P. 5317), or to suspend the rules (5 H.P. 5316). The motion to postpone to a day certain may be amended (5 H.P. 5754). It is debatable within narrow limits only (5 H.P. 5309, 5310), the merits of the proposition to which it is applied not being within those limits (5 H.P. 5311-5315; 8 C.P. 2640).

Section 16. Order of Consideration of Postponed Matters — If two or more bills, resolutions, or other propositions are postponed to the same time, and are otherwise eligible for consideration at that time, they shall be considered in the chronological order of their setting.

Section 17. Motion to Refer — When motions are made to refer a subject to a select or standing committee, the question on the subject's referral to a standing committee shall be put first.

EXPLANATORY NOTES

It has been held that a bill, resolution or other matter re-referred from committee A to committee B could, by a majority vote at the proper time, be re-referred to committee C, but a motion to re-refer from B back to A would have to follow the reconsideration rule, or receive a two-thirds vote for a suspension of the rules for the particular purpose.

HOUSE PRECEDENTS

MOTION TO RE-REFER A BILL UNDER CONSIDERATION BY A SUBCOMMITTEE. — Mr. Wood moved as a substitute motion that H.B. 126 be withdrawn from the Committee on Revenue and Taxation and re-referred to the Committee on Appropriations.

Mr. Mays raised a point of order against the motion on the ground that a bill being considered in subcommittee may not be re-referred by action of the house.

The speaker, Mr. Morse, overruled the point of order. (46 H.J. Reg. 956 (1939)).

Section 18. Motion to Recommit — A motion to recommit a bill, after being defeated at the routine motion period, may again be made when the bill itself is under consideration; however, a motion to recommit a bill shall not be in order at the routine motion period if the bill is then before the house as either pending business or unfinished business.

A motion to recommit a bill or resolution can be made and voted on even though the author, sponsor, or principal proponent is not present.

Section 19. Terms of Debate on Motions to Refer, Rerefer, Commit, or Recommit — A motion to refer, rerefer, commit, or recommit is debatable within narrow limits, but the merits of the proposition may not be brought into the debate. A motion to refer, rerefer, commit, or recommit with instructions is fully debatable.

HOUSE PRECEDENTS

MOTION TO RECOMMIT TO COMMITTEE OF THE WHOLE HOUSE. — In the 51st Legislature, the speaker, Mr. Manford, ruled that debate on motions "to recommit to the committee of the whole house" is the same as allowed under the rules for other motions to recommit.

Section 20. Recommitting to Committee for a Second Time —Except as provided in Rule 4, Section 30, when a bill has been recommitted once at any reading and has been reported adversely by the committee to which it was referred, it shall be in order to again recommit the bill only if a minority report has been filed in the time required by the rules of the house. A two-thirds vote of those present shall be required to recommit a second time.

HOUSE PRECEDENTS

ADVERSE COMMITTEE REPORT ON A BILL DOES NOT PREVENT CONSIDERATION OF A SIMILAR BILL. — The house was considering a bill similar to one adversely reported to the house, when Mr. Bailey raised the point of order that a bill having the same subject had been reported adversely by Judiciary Committee No. 2, which was in effect the defeat of the bill, and that it was not now in order to pass on this bill.

Overruled. (26 H.J. Reg. 1206 (1899)).

Chapter B. Motion for the Previous Question

Section 21. Motion for the Previous Question — There shall be a motion for the previous question, which shall be admitted only when seconded by 25 members. It shall be put by the chair in this manner: "The motion has been seconded. Three minutes pro and con debate will be allowed on the motion for ordering the previous question." As soon as the debate has ended, the chair shall continue: "As many as are in favor of ordering the previous question on (here state on which question or questions) will say 'Aye,'" and then, "As many as are opposed say 'Nay.'" As in all other propositions, a motion for the previous question may be taken by a record vote if demanded by any member. If ordered by a majority of the members voting, a quorum being present, it shall have the effect of cutting off all debate, except as provided in Section 23 of this rule, and bringing the house to a direct vote on the immediate question or questions on which it has been asked and ordered.

Section 22. Debate on Motion for Previous Question — On the motion for the previous question, there shall be no debate except as provided in Sections 2 and 21 of this rule. All incidental questions of order made pending decision on such motion shall be decided, whether on appeal or otherwise, without debate.

Section 23. Limitation of Debate After Previous Question Ordered — After the previous question has been ordered, there shall be no debate upon the questions on which it has been ordered, or upon the incidental questions, except that the mover of the proposition or any of the pending amendments or any other motions, or the member making the report from the

committee, or, in the case of the absence of either of them, any other member designated by such absentee, shall have the right to close the debate on the particular proposition or amendment. Then a vote shall be taken immediately on the amendments or other motions, if any, and then on the main question.

Section 24. Speaking and Voting After the Previous Question Ordered — All members having the right to speak after the previous question has been ordered shall speak before the question is put on the first proposition covered by the previous question. All votes shall then be taken in the correct order, and no vote or votes shall be deferred to allow any member to close on any one of the propositions separately after the voting has commenced.

Section 25. Speaking on an Amendment as Substituted — When an amendment has been substituted and the previous question is then moved on the adoption of the amendment as substituted, the author of the amendment as substituted shall have the right to close the debate on that amendment in lieu of the author of the original amendment.

HOUSE PRECEDENTS

ORDER OF SPEECHES WHEN THE PREVIOUS QUESTION HAS BEEN ORDERED ON A SERIES OF PENDING MOTIONS. — A bill was pending on second reading and an amendment was adopted thereto. A motion to reconsider the vote on the adoption of the amendment was made. Then a motion for the previous question was made, seconded and voted on all pending motions, i.e., the motion to reconsider, the adoption of the amendment (if the motion to reconsider prevailed), and, lastly, the engrossment of the bill. Since, under the rule, all speeches must be made before voting begins on a series of motions under the previous question, the speaker, Mr. Senterfitt, ruled that the mover of the motion to reconsider should speak first, next the author of the amendment, and, lastly, the author of the bill.

The principle illustrated is that the order of speeches should follow, as nearly as possible, the order which would have been obtained if the previous question had not been ordered. The complicating factor in the above case was that the rights of the author of the amendment had to be protected by allowing him to speak as indicated above. Had he not been so allowed, even though his amendment was not actually pending, and the motion to reconsider had been adopted, he would have been cut off. Of course, if the previous question had not been ordered, the author of the amendment would have spoken first, and the mover of the motion to reconsider would then have closed the debate. This inversion of the order of speaking between these two members, as recited above, was logical because, with no previous question, if the motion to reconsider had prevailed, the author of the amendment would have had the right to close on his amendment. As it happened in the precedent above, the motion to reconsider was lost, consequently the only remaining vote was upon the engrossment of the bill.

Section 26. Speaking on a Motion to Postpone or Amend — When the previous question is ordered on a motion to postpone indefinitely or to amend

by striking out the enacting clause of a bill, the member moving to postpone or amend shall have the right to close the debate on that motion or amendment, after which the mover of the proposition or bill proposed to be so postponed or amended, or the member reporting it from the committee, or, in the absence of either of them, any other member designated by the absentee, shall be allowed to close the debate on the original proposition.

Section 27. Application of the Previous Question — The previous question may be asked and ordered on any debatable single motion or series of motions, or any amendment or amendments pending, or it may be made to embrace all authorized debatable motions or amendments pending and include the bill, resolution, or proposition that is on second or third reading. The previous question cannot be ordered, however, on the main proposition without including other pending motions of lower rank as given in Section 3 of this rule.

EXPLANATORY NOTES

See Rule 8, Sec. 16, concerning moving the previous question during section-by-section consideration.

HOUSE PRECEDENTS

THE HOUSE HAVING ORDERED THE CONSIDERATION OF THE APPROPRIATIONS BILL BY DEPARTMENTS, THE PREVIOUS QUESTION COULD NOT BE ORDERED ON THE ENGROSSMENT OF THE BILL WITHOUT RECONSIDERING THE ORDER OR COMPLETING THE CONSIDERATION OF THE SECTIONS OF THE BILL. — During the consideration of an appropriation bill the house had ordered that it be considered by departments, and, while the house was considering the public health and vital statistics division, Mr. Dodd moved the previous question on the engrossment of the bill.

Mr. Rice raised a point of order on the motion, on the ground that the house had passed an order to consider the bill by departments, and that said order must first be reconsidered.

Sustained. (29 H.J. 1 C.S. 121 (1905)).

CONGRESSIONAL PRECEDENTS

THE PREVIOUS QUESTION. — The motion may not include a provision that it shall take effect at a certain time (5 H.P. 5457). It is often ordered on undebatable propositions to prevent amendments (5 H.P. 5473, 5490), but may not be moved on a motion that is both undebatable and unamendable (4 H.P. 3077). It applies to questions of privilege as to other questions (2 H.P. 1256; 5 H.P. 5459, 5460).

Section 28. Limit of Application — The previous question shall not extend beyond the final vote on a motion or sequence of motions to which the previous question has been ordered.

Section 29. Amendments Not Yet Laid Before the House — Amendments on the speaker's desk for consideration which have not actually been laid before the house and read cannot be included under a motion for the previous question.

Section 30. Moving the Previous Question After a Motion to Table — If a motion to table is made directly to a main motion, the motion for the previous question is not in order. In a case where an amendment to a main motion is pending, and a motion to table the amendment is made, it is in order to move the previous question on the main motion, the pending amendment, and the motion to table the amendment.

Section 31. No Substitute for Motion for the Previous Question — There is no acceptable substitute for a motion for the previous question, nor can other motions be applied to it.

EXPLANATORY NOTES

An inspection of Sec. 3 of this rule, in regard to the precedence of motions, will show that a motion to table takes precedence over a motion for the previous question when those motions are applied to the same motion. However, if a main motion is pending, e.g., the engrossment of a bill, and a motion of lower rank than the previous question, as given in Sec. 3 of this rule, is pending, and a motion to table that motion is made, then the previous question may be applied to the whole series of motions pending, including the motion to table.

HOUSE PRECEDENTS

ACCEPTANCE OF A MOTION FOR THE PREVIOUS QUESTION, PROVIDED THERE HAS BEEN SOME DISCUSSION ON THE BILL. — Mr. Jones of Atascosa moved the previous question on House Bill No. 365 and the pending committee amendment.

Mr. Pope raised the point of order that such motion was out of order, under the provisions of the constitution, because there had not been full and free discussion on the bill and amendment.

The speaker, Mr. Stevenson, overruled the point of order, holding that since there had been some discussion on the bill and amendment, the motion was in order, but if there had been no discussion whatsoever on the bill or amendment the motion would be clearly out of order. (44 H.J. Reg. 1317 (1935)).

Section 32. Motion for the Previous Question Not Subject to Tabling — The motion for the previous question is not subject to a motion to table.

Section 33. Motion to Adjourn After Motion for Previous Question Accepted — The motion to adjourn is not in order after a motion for the previous question is accepted by the chair, or after the seconding of such motion and before a vote is taken.

Section 34. Motions In Order After Previous Question Ordered — After the previous question has been ordered, no motion shall be in order until the question or questions on which it was ordered have been voted on, without debate, except:

(1) a motion for a call of the house, and motions incidental thereto;

(2) a motion to extend the time of a member closing on a proposition;

(3) a motion to permit a member who has the right to speak to yield the time or a part thereof to another member;

(4) a request for and a verification of a vote;

(5) a motion to reconsider the vote by which the previous question was ordered. A motion to reconsider may be made only once and that must be before any vote under the previous question has been taken;

(6) a motion to table a motion to reconsider the vote by which the previous question has been ordered;

(7) a double motion to reconsider and table the vote by which the previous question was ordered.

EXPLANATORY NOTES

1. No debate is allowed on the above motions, and they are decided by majority vote.
2. See Sec. 38 of this rule, concerning debate on motion to reconsider.
3. See first House Precedent following Rule 14, Sec. 3.

Section 35. Motion to Adjourn or Recess After Previous Question Ordered — No motion for an adjournment or a recess shall be in order after the previous question is ordered until the final vote under the previous question has been taken, unless the roll call shows the absence of a quorum.

EXPLANATORY NOTES

If the house adjourns, the whole matter under consideration is picked up just where it was left off, the previous question still being in effect, as provided in Sec. 36 of this rule.

Section 36. Adjourning Without a Quorum — When the house adjourns without a quorum under the previous question, the previous question shall remain in force and effect when the bill, resolution, or other proposition is again laid before the house.

Chapter C. Reconsideration

Section 37. Motion to Reconsider a Vote — (a) When a question has been decided by the house and the yeas and nays have been called for and recorded, any member voting with the prevailing side may, on the same legislative day, or on the next legislative day, move a reconsideration; however, if a reconsideration is moved on the next legislative day, it must be done before the order of the day, as designated in the 11th item of Rule 6, Section 1(a), is taken up. If the house refuses to reconsider, or on reconsideration, affirms its decision, no further action to reconsider shall be in order.

(b) Where the yeas and nays have not been called for and recorded, any member, regardless of whether he or she voted on the prevailing side or not, may make the motion to reconsider; however, even when the yeas and nays have not been recorded, the following shall not be eligible to make a motion to reconsider:

(1) a member who was absent;

(2) a member who was paired and, therefore, did not vote; and

(3) a member who was recorded in the journal as having voted on the losing side.

HOUSE PRECEDENTS

RECONSIDERATION OF ROUTINE MOTIONS. — In the 54th Legislature, the speaker, Mr. Lindsey, ruled that, in view of the provisions of the above section, a proper motion to reconsider the vote taken on a motion during a routine motion period could be made at any time permitted under this section, but that voting on reconsideration must go over to a routine motion period in the daily order of business on a subsequent legislative day, in accordance with Sec. 43 of this rule.

Section 38. Debate on Motion to Reconsider — A motion to reconsider shall be debatable only when the question to be reconsidered is debatable. Even though the previous question was in force before the vote on a debatable question was taken, debate is permissible on the reconsideration of such debatable question.

Section 39. Majority Vote Required — Every motion to reconsider shall be decided by a majority vote, even though the vote on the original question requires a two-thirds vote for affirmative action. If the motion to reconsider prevails, the question then immediately recurs on the question reconsidered.

CONGRESSIONAL PRECEDENTS

THE MOTION TO RECONSIDER. — The provision of the rule that the motion may be made "by any member of the majority" is construed to mean any member of the prevailing side, be the vote a tie vote or one requiring two-thirds (5 H.P. 5615, 5616, 5617, 5618; 1 H.P. 1656). While the motion has high privilege for entry, it may not be considered while another question is before the house (5 H.P. 5673-5676). The motion may not be applied to negative votes on motions to adjourn or recess (5 H.P. 5620-5622, 5625). It is in order to reconsider a vote postponing a bill to a day certain (5 H.P. 5643); but not to reconsider a negative decision on a vote to suspend the rules (5 H.P. 5645, 5646). When the motion to reconsider is decided in the affirmative the question immediately recurs on the question reconsidered (5 H.P. 5703). After passage of a bill, reconsideration of the vote on any amendment thereto may be secured only by a motion to reconsider the vote by which the bill was passed (8 C.P. 2789). The motion to reconsider may not be applied to the vote whereby the house has laid another motion to reconsider on the table (5 H.P. 5632, 5640). A motion to reconsider is not debatable if the motion proposed to be reconsidered was not debatable (5 H.P. 5694-5699). A request for unanimous consent is in effect a motion and action predicated thereon is subject to reconsideration (8 H.P. 2794).

Section 40. Withdrawal of Motion to Reconsider — A motion to reconsider cannot be withdrawn unless permission is given by a majority vote of the house, and the motion may be called up by any member.

Section 41. Tabling Motion to Reconsider — A motion to reconsider shall be subject to a motion to table, which, if carried, shall be a final disposition of the motion to reconsider.

Section 42. Double Motion to Reconsider and Table — The double motion to reconsider and table shall be in order. It shall be undebatable. When carried, the motion to reconsider shall be tabled. When it fails, the question shall then be on the motion to reconsider, and the motion to reconsider shall, without further action, be spread on the journal, but it may be called up by any member, in accordance with the provisions of Section 43 of this rule.

EXPLANATORY NOTES

1. In the practice of the house, the double motion to reconsider the vote on a proposition and to table the motion to reconsider occurs frequently. It is in effect two motions, one to reconsider the vote on a proposition and the other to lay the motion to reconsider on the table. The question is first on the motion to table. If that motion is lost, the question is then on the motion to reconsider. The purpose of this double motion is to prevent reconsideration of a matter the house has already decided, for when a motion to reconsider is tabled, another motion to reconsider is not permitted under the rules.
2. As stated above, when the motion to table fails, the question recurs on the motion to reconsider, i.e., the second half of the double motion. Since a motion to reconsider is debatable, if the motion to be reconsidered is debatable, debate may be in order on the motion to be reconsidered. It follows logically that the right to close the debate under the described situation passes to the side favoring a reconsideration.
3. The motion to reconsider remaining after the defeat of a double motion to reconsider and table is not again subject to a motion to table, even at a later date.
4. The motion to rescind is not permitted under the rules.

HOUSE PRECEDENTS

MOTION TO RECONSIDER AND TABLE AN AMENDMENT NOT IN ORDER AFTER BILL PASSED TO ENGROSSMENT. — In the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled that the motion to reconsider and table an amendment adopted on second reading of a bill could not be made after the bill had passed to engrossment.

Section 43. Delayed Disposition of Motion to Reconsider — (a) If a motion to reconsider is not disposed of when made, it shall be entered in the journal, and cannot, after that legislative day, be called up and disposed of unless one legislative day's notice has been given.

(b) Unless called up and disposed of prior to 72 hours before final adjournment of the session, all motions to reconsider shall be regarded as determined and lost.

(c) All motions to reconsider made during the last 72 hours of the session shall be disposed of when made; otherwise, the motion shall be considered as lost.

Section 44. Motion to Reconsider and Spread on Journal — (a) A member voting on the prevailing side may make a motion to reconsider and spread on the journal, which does not require a vote, and on the motion being

made, it shall be entered on the journal. Any member, regardless of whether he or she voted on the prevailing side or not, who desires immediate action on a motion to reconsider which has been spread on the journal, can call it up as soon as it is made, and demand a vote on it, or can call it up and move to table it.

(b) If the motion to table the motion to reconsider is defeated, the motion to reconsider remains spread on the journal for future action; however, any member, regardless of whether he or she voted on the prevailing side or not, can call the motion from the journal for action by the house, and, once disposed of, no other motion to reconsider can be made.

EXPLANATORY NOTES

1. If notice has been given by a member that a motion to reconsider, which has been spread upon the journal, will be called up on the next legislative day or on some other day later, then that member or any other member can call up the motion. The fact that the notice required by the rule has been given is sufficient to qualify any member to call up the motion.

2. If a motion to reconsider, previously spread upon the journal, is not called up on the legislative day for which the required notice has been given, then a new notice must be given before the motion can be called up from the journal.

Section 45. Motion to Require Committee to Report — (a) During the first 76 calendar days of a regular session, when any bill, resolution, or other paper has been in committee for 6 calendar days, exclusive of the calendar day on which it was referred, it shall be in order for a member to move that the committee be required to report the same within 7 calendar days. This motion shall require a two-thirds vote for passage.

(b) After the first 76 calendar days of a regular session, when any bill, resolution, or other paper has been in committee for 6 calendar days, exclusive of the calendar day on which it was referred, it shall be in order for a member to move that the committee be required to report the same within 7 calendar days. This motion shall require a majority vote for passage.

(c) A motion to instruct a committee to report is not a privileged motion and must be made during the routine motion period unless made under a suspension of the rules.

(d) The house shall have no authority to instruct a subcommittee directly; however, instructions recognized under the rules may be given to a committee and shall be binding on all subcommittees.

EXPLANATORY NOTES

The house may not instruct a committee to do that which it is not permitted to do under the rules, or to require of it actions not covered by the rules.

Section 46. Motion to Rerefer to Another Committee — (a) During the first 76 calendar days of a regular session, when any bill, resolution, or other paper has been in committee for 7 calendar days after the committee was

instructed by the house to report that measure by a motion made under Section 45 of this rule, it shall be in order for a member to move to rerefer the bill, resolution, or other paper to a different committee. This motion shall require a two-thirds vote for passage.

(b) After the first 76 calendar days of a regular session, when any bill, resolution, or other paper has been in committee for 7 calendar days after the committee has been instructed to report that measure by a motion made under Section 45 of this rule, it shall be in order for a member to move to rerefer the bill, resolution, or other paper to a different committee. This motion shall require a majority vote for passage.

(c) A motion to rerefer a bill, resolution, or other paper from one committee to another committee is not a privileged motion and must be made during the routine motion period unless made under a suspension of the rules.

Rule 8. Bills

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RULE 8
Bills

Section 1. Contents of Bills — Proposed laws or changes in laws must be incorporated in bills, which shall consist of:

(1) a title or caption, beginning with the words "A Bill to be Entitled An Act" and a brief statement that gives the legislature and the public reasonable notice of the subject of the proposed measure;

(2) an enacting clause, "Be It Enacted by the Legislature of the State of Texas"; and

(3) the bill proper.

EXPLANATORY NOTES

See Const., Art. 3, Sec. 29.

HOUSE PRECEDENTS

IF THE ENACTING CLAUSE APPEARS IN THE ORIGINAL COPY OF A BILL AS FILED, ITS OMISSION FROM THE PRINTED BILL IS IMMATERIAL. — Mr. Bolin raised a point of order on further consideration of a bill, stating that as the printed bill contains no enacting clause, there is nothing before the house.

The chair overruled the point of order, stating that the original bill on the speaker's table contained the enacting clause, and that the omission was clearly a mistake of the printer. (28 H.J. Reg. 786 (1903)).

CONGRESSIONAL PRECEDENTS

MOTION TO STRIKE OUT THE ENACTING CLAUSE. — Striking out the enacting clause of a bill constitutes its rejection (5 H.P. 5326). On a motion to strike out the enacting clause a member may debate the merits of the bill, but must confine himself to its provisions (5 H.P. 5336). See additional explanatory notes after Rule 11, Sec. 7.

Section 2. Publishing Acts in Their Entirety — No law shall be revived or amended by reference to its title. The act revived, or the section or sections amended, shall be reenacted and published at length. This rule does not apply to revisions adopted under Article III, Section 43, of the Texas Constitution.

EXPLANATORY NOTES

See Texas Const., Art. 3, Sec. 36 and Sec. 43.

Section 3. Limiting a Bill to a Single Subject — Each bill (except a general appropriations bill, which may embrace the various subjects and accounts for which money is appropriated or a revision adopted under Article III, Section 43, of the Texas Constitution) shall contain only one subject.

HOUSE PRECEDENTS

BILL CONTAINING MORE THAN SINGLE SUBJECT. — H.B. 2 with senate amendments, relating to the allocation of certain revenue from franchise taxes, motor vehicle sales and use taxes, and taxes on cigarettes and other tobacco products to provide property tax relief

and public education, was called up for consideration. The speaker, Mr. Craddick, sustained a point of order that as amended by the senate H.B. 2 contained more than one subject. The ruling noted that, while latitude is given by courts in analyzing legislation for violation of the single-subject requirement of Article III, Section 30, Texas Constitution, legislation of this importance places a great duty of care upon the legislature to comply with that constitutional requirement and make every effort to ensure that no bill is passed that could reasonably be construed to violate that provision. The bill as it left the house had only one subject: the dedication of certain tax revenue to the reduction of school property tax rates. The senate amendment expanded the subject, authorizing the use of the dedicated funds for a second purpose in the form of an appropriation to the Texas Education Agency to increase funding to schools. This amendment effectively expanded the subject of the bill to include two subjects. The bill with senate amendments violated both House Rule 8, Section 3, and Article III, Section 30, Texas Constitution. (79 H.J. 3 C.S. 236 (2006)).

Section 4. Changing General Law Through an Appropriations Bill — A general law may not be changed by the provisions in an appropriations bill.

EXPLANATORY NOTES

1. See Const., Art. 3, Sec. 35. It has been held many times that the legislature is not bound to appropriate the full amount purportedly required by law. Inherent in the power to appropriate funds is the power to determine the amount to be appropriated. A previous legislature, in passing a general law that purports to require a specific amount of funding, may not bind a subsequent legislature to appropriate that amount. Accordingly, the legislature may appropriate less than the amount that general law would otherwise require. For example, when the salaries of many state officers and employees were fixed by statute, it was often held that the legislature could appropriate less than the statutory amount. Similarly, the legislature is empowered to appropriate less funds for formula-driven entitlements such as the foundation school program than the formulas would require to fully fund the program.

2. There are many holdings by courts, the attorney general, and presiding officers that a rider to an appropriations bill may detail, restrict, or limit the expenditure of appropriated funds, but may not enact or amend general law. See Op. Tex. Att'y Gen. Nos. MW-51 (1979), MW-389 (1981); Moore v. Sheppard, 192 S.W. 2d 559 (Tex. 1946).

HOUSE PRECEDENTS

POINTS CONCERNING CONSTITUTIONALITY OF CERTAIN APPROPRIATIONS. — In the 70th Legislature, 2nd Called Session, the house was considering S.B. 1, the General Appropriations Act. Representative Horn offered an amendment to transfer certain motor vehicle registration fees from the state highway fund to the general revenue fund. Representative Rudd raised a point of order against consideration of the amendment on the grounds that the amendment directed dedicated funds that could not constitutionally be redirected. (Article VIII, Section 7-a, of the Texas Constitution directs the use of

motor vehicle registration fees.) The chair sustained the point of order. 70 H.J. 2d C.S. 82 (1987).

The same session, during consideration of the same bill, Representative Hammond raised a point of order against further consideration of a rider included in the committee substitute for S.B. 1 on the grounds that the rider was attempting to change general law in the appropriations bill in violation of this rule and Article 3, Section 35, of the Texas Constitution. The chair sustained the point of order, stating: "The last two sentences of Rider 16 under the Foundation School Program purport to define terms used in general law. While a rider may detail, limit, or restrict the expenditure of funds, these two sentences do not do so but, rather, have the effect of general law." The rider was stricken from the bill. 70 H.J. 2d C.S. 147 (1987).

Section 5. Coauthorship, Joint Authorship, Sponsorship, Cosponsorship, and Joint Sponsorship — (a) A house bill or resolution may have only one primary author. The signature of the primary author shall be the only signature that appears on the original measure and all copies filed with the chief clerk. The signatures of all coauthors or joint authors shall appear on the appropriate forms in the chief clerk's office.

(b) Any member may become the coauthor of a bill or resolution by securing permission from the author. If permission is secured from the author prior to the time the measure is filed with the chief clerk, the primary author and the coauthor shall sign the appropriate form, which shall be included with the measure when it is filed with the chief clerk. If a member wishes to become the coauthor of a measure after it has been filed, no action shall be required by the house, but it shall be the duty of the member seeking to be a coauthor to obtain written authorization on the appropriate form from the author. This authorization shall be filed with the chief clerk before the coauthor signs the form for the bill or resolution. The chief clerk shall report daily to the journal clerk the names of members filed as coauthors of bills or resolutions. If a coauthor of a bill or resolution desires to withdraw from such status, the member shall notify the chief clerk, who in turn shall notify the journal clerk.

(c) The primary author of a measure may designate up to four joint authors by providing written authorization on the appropriate form to the chief clerk. If a member designated as a joint author has not already signed on the measure as a coauthor, that member must also sign the form before the records will reflect the joint author status of that member. The names of all joint authors shall be shown immediately following the primary author's name on all official printings of the measure, on all house calendars, in the house journal, and in the electronic legislative information system.

(d) The determination of the house sponsor of a senate measure is made at the time the measure is reported from committee. In the case of multiple requests for house sponsorship, the house sponsor of a senate measure shall be determined by the chair of the committee, in consultation with the senate author of the measure. The chair of the committee must designate a primary sponsor and may designate up to four joint sponsors or an unlimited number of cosponsors. The names of all joint sponsors shall be shown immediately

following the primary sponsor's name on all official printings of the measure, on all house calendars, in the house journal, and in the electronic legislative information system.

EXPLANATORY NOTES

1. The house sponsor of a senate bill or resolution has all of the rights and privileges accorded a house author under the rules.
2. Under current practice, a member cannot become the joint author or coauthor of a bill after same has been passed by the house.
3. Under current practice, a house member who desires to sponsor a senate measure notifies the chief clerk of that fact and the chief clerk forwards that information to the chair of the committee to which the senate measure is referred. The determination of the house sponsor of a senate measure is made by the chair of the committee when the measure is reported, and the house sponsor of a senate measure is normally the member who requested a hearing on the measure. If more than one member has requested to sponsor a senate measure, the chair of the committee may designate a primary sponsor and up to four joint sponsors or one or more cosponsors of the measure.

Section 6. Filing, First Reading, and Referral to Committee — Each bill shall be filed with the chief clerk when introduced and shall be numbered in its regular order. Each bill shall be read first time by caption and referred by the speaker to the appropriate committee with jurisdiction.

Section 7. Prefiling — Beginning the first Monday after the general election preceding the next regular legislative session, or within 30 days prior to any special session, it shall be in order to file with the chief clerk bills and resolutions for introduction in that session. On receipt of the bills or resolutions, the chief clerk shall number them and make them a matter of public record, available for distribution. Once a bill or resolution has been so filed, it may not be recalled. This shall apply only to members-elect of the succeeding legislative session.

Section 8. Deadline for Introduction — (a) Bills and joint resolutions introduced during the first 60 calendar days of the regular session may be considered by the committees and in the house and disposed of at any time during the session, in accordance with the rules of the house. After the first 60 calendar days of a regular session, any bill or joint resolution, except local bills, emergency appropriations, and all emergency matters submitted by the governor in special messages to the legislature, shall require an affirmative vote of four-fifths of those members present and voting to be introduced.

(b) In addition to a bill defined as a "local bill" under Section 10(c) of this rule, a bill is considered local for purposes of this section if it relates to a specified district created under Article XVI, Section 59, of the Texas Constitution (water districts, etc.), a specified hospital district, or another specified special purpose district, even if neither these rules nor the Texas Constitution require publication of notice for that bill.

EXPLANATORY NOTES

When the house gives permission for the introduction of a bill or joint resolution under the above section, the chief clerk so endorses the original bill or joint resolution.

HOUSE PRECEDENTS

APPLICATION TO JOINT RESOLUTIONS. — In the 54th Legislature the speaker, Mr. Lindsey, held that the requirement for a four-fifths vote for introduction after the first sixty days of a regular session also applied to joint resolutions.

Section 9. Number of Copies Filed — (a) Thirteen copies of every bill, except bills relating to conservation and reclamation districts and governed by the provisions of Article XVI, Section 59, of the Texas Constitution, must be filed with the chief clerk at the time that the bill is introduced.

(b) Fifteen copies of every bill relating to conservation and reclamation districts and governed by the provisions of Article XVI, Section 59, of the Texas Constitution, with copies of the notice to introduce the bill attached, must be filed with the chief clerk at the time that the bill is introduced if the bill is intended to:

(1) create a particular conservation and reclamation district; or

(2) amend the act of a particular conservation and reclamation district to:

(A) add additional land to the district;

(B) alter the taxing authority of the district;

(C) alter the authority of the district with respect to issuing bonds; or

(D) alter the qualifications or terms of office of the members of the governing body of the district.

(c) No bill may be laid before the house on first reading until it is in compliance with the provisions of this section.

EXPLANATORY NOTES

1. One copy is kept in a safe by the chief clerk.

2. Occasionally an original bill is lost in processing. At times bills are lost in the senate. Current procedure necessary to remedy the difficulty is to obtain a new copy, certified by the chief clerk of the house or the secretary of the senate, as the situation dictates, complete with all endorsements so as to show the exact status of the bill at the time it was lost. If a bill of one house is lost in the other, a resolution requesting a new copy, with all endorsements, from the house of origin, is in order, and the request must be granted as authorization for the substitution.

HOUSE PRECEDENTS

IDENTICAL COPIES OF BILLS MUST BE FILED WHEN INTRODUCED. CASE WHERE FAILURE TO DO SO CAUSED THE BILL TO BE RULED AS NOT LEGALLY INTRODUCED EVEN THOUGH SAME HAD REACHED SECOND READING. — H.B. 44 was laid before the house, and Mr. Fly raised a point of order on its further consideration on the

ground that when it was introduced the author failed to comply with the then paragraph 2 of Sec. 1 of Rule 18 in that the original and the required copy were not identical, but rather there were significant differences between the two.

The speaker, Mr. Reed, after thoroughly investigating the facts concluded that, while the differences involved were due entirely to an oversight, yet they were of such a character as to be clearly in violation of the rule cited and, as a consequence, he ruled that the bill had never been legally introduced. In so ruling he held further that the point of order did not come too late when made on second reading of the bill. (50 H.J. Reg. 832 (1947)).

Section 10. Local Bills — (a) The house may not consider a local bill unless notice of intention to apply for the passage of the bill was published as provided by law and evidence of the publication is attached to the bill. If not attached to the bill on filing with the chief clerk or receipt of the bill from the senate, copies of the evidence of timely publication shall be filed with the chief clerk and must be distributed to the members of the committee not later than the first time the bill is laid out in a committee meeting. The evidence shall be attached to the bill on first printing and shall remain with the measure throughout the entire legislative process, including submission to the governor.

(b) Neither the house nor a committee of the house may consider a bill whose application is limited to one or more political subdivisions by means of population brackets or other artificial devices in lieu of identifying the political subdivision or subdivisions by name. However, this subsection does not prevent consideration of a bill that classifies political subdivisions according to a minimum or maximum population or other criterion that bears a reasonable relation to the purpose of the proposed legislation or a bill that updates laws based on population classifications to conform to a federal decennial census.

(c) Except as provided by Subsection (d) of this section, "local bill" for purposes of this section means:

(1) a bill for which publication of notice is required under Article XVI, Section 59, of the Texas Constitution (water districts, etc.);

(2) a bill for which publication of notice is required under Article IX, Section 9, of the Texas Constitution (hospital districts);

(3) a bill relating to hunting, fishing, or conservation of wildlife resources of a specified locality;

(4) a bill creating or affecting a county court or statutory court or courts of one or more specified counties or municipalities;

(5) a bill creating or affecting the juvenile board or boards of a specified county or counties; or

(6) a bill creating or affecting a road utility district under the authority of Article III, Section 52, of the Texas Constitution.

(d) A bill is not considered to be a local bill under Subsection (c)(3), (4), or (5) if it affects a sufficient number of localities, counties, or municipalities so as to be of general application or of statewide importance.

EXPLANATORY NOTES

1. Most local bills are prohibited by Article 3, Section 56, of the Texas Constitution. Where local bills are permitted by the constitution, the constitution requires publication of notice of intent to introduce the bill. A bill that would enact a valid "bracket law" is not considered a local bill for purposes of publishing notice. The procedure for publishing notice is provided by Chapter 313, Government Code.

2. The constitution requires notice for three of the six types of bills listed in this rule. In addition, the constitution probably requires notice for five additional types of local bills not listed in this rule: (1) grants in cases of public calamity, (2) consolidation of county government offices, (3) creation and operation of airport authorities, (4) fence laws, and (5) stock laws. A bill for which the constitution requires notice is subject to a point of order if the notice is not given, even if the bill is not of a type listed in this rule. However, a bill for which the constitution or rules require notice is probably not subject to a successful court challenge if the notice is not given.

3. Article IX, Section 9, of the Texas Constitution requires publication of notice on all bills that create a hospital district. Other bills concerning hospital districts do not require publication of notice.

4. Article XVI, Section 59, of the Texas Constitution requires publication of notice on all bills that create a conservation and reclamation district (e.g., water district, water authority, river authority, subsidence district, waste disposal authority, etc.). In addition, publication of notice is required on all bills amending a law creating or governing a conservation and reclamation district if the bill (1) adds additional land to the district; (2) alters the taxing authority of the district; (3) alters the authority of the district with respect to the issuance of bonds; or (4) alters the qualifications or terms of office of the members of the governing body of the district.

HOUSE PRECEDENTS

1. BILL RELATING TO THE SALE OF PUBLIC LAND ON ISLANDS NOT LOCAL. — A bill to be entitled "An Act to provide for the purchase of public lands in quantities of five acres or less situated on islands by actual settlers who have settled on and placed valuable improvements thereon in good faith, or to their heirs or legal representatives prior to the first day of January, 1895, and prescribing the price, terms and manner and time of such purchase," was held, on a point of order by Mr. Bean, not to be a local bill. (27 H.J. Reg. 1162 (1901)).

2. BILL CREATING A DISTRICT COURT OUT OF PARTS OF TWO OR MORE COUNTIES NOT LOCAL. — Pending, on a local bill day, a house bill, the nature of which the following point of order explains:

Mr. Bowles raised a point of order on further consideration of the bill, on the ground that it is not a local bill, for the reason that it creates another district court for half of Dallas County and half of Grayson County, and makes changes also in the time of the meeting of the district court in Collin County.

Sustained. (31 H.J. Reg. 602 (1909)).

3. FEE BILL APPLYING TO COUNTIES OF MORE THAN 80,000 NOT LOCAL. — The house was considering a fee bill applying to counties having a population of 80,000 or more.

Mr. Adams raised a point of order on consideration of the amendment on the ground that the bill is a local bill and notice thereof must be advertised before its passage by the legislature.

Overruled. (31 H.J. Reg. 837 (1909)).

4. A GENERAL BILL CANNOT BY AMENDMENT BE CHANGED TO A LOCAL BILL. — The House was considering a bill to provide means of securing fair elections and true returns thereof whenever any election is held when any proposed amendment or amendments to the Constitution of this State shall be voted upon. Mr. Smith of Atascosa offered an amendment providing that the provisions of the act should apply only to the Fourth Senatorial District, which amendment, upon the point of order raised by Mr. Schluter, was held not germane to the purpose of the bill. (32 H.J. Reg. 1153 (1911)).

5. CASE WHERE GAME AND FISH BILL WAS RULED NOT LOCAL. — During the 58th Legislature Speaker Tunnell ruled, in part, regarding publication of game and fish laws, as follows:

"The sixth and final numbered point of order relates to the requirement of publication of notice of a local law 30 days before its introduction, in that no publication has been made of S.B. 341. This publication requirement is provided by Section 57, Article 3 of the Constitution of the State of Texas. The point of order refers to the enrolled bill doctrine and the necessity for the presiding officers of the Legislature to enforce this provision.

The enrolled bill doctrine was established in a Texas Supreme Court decision in 1892 in a case styled William vs. Taylor. This doctrine provides that a bill which is signed by the presiding officers of both houses and approved by the Governor affords conclusive evidence that it was passed according to the Constitution, and the journals of the houses cannot be looked to in determining a question in judicial review.

Now, as to the Chair's duty concerning the lack of publication of S.B. 341. The Chair has found clear judicial precedent to rule that a game and fish law, such as we have proposed before us in S.B. 341, does not require the notice provided by Section 57 of Article 3.

As the Chair has ruled in consideration of these points of order that according to the specific proviso contained in Section 56 of Article 3 of the Constitution, an act of the Legislature for the protection of the fish of the State, as proposed in S.B. 341, is not a 'local' law in the sense used in Sections 56 and 57 of Article 3 of the Constitution. The Chair cites Stephenson v. Wood 35 SW 2d 795, in clear support of a ruling that the authority of the Legislature to pass game and fish laws such as the one under consideration without notice mentioned in Section 57 of Article 3 of the Constitution is specially reserved. For these reasons, the point of order is respectfully overruled." (58 H.J. Reg. 2511 (1963)). (The house rules have since been amended to require publication of notice for game and fish laws.)

Section 11. Consideration in Committee — (a) No bill shall be considered unless it first has been referred to a committee and reported from it.

(b) After a bill has been recommitted, it shall be considered by the committee as a new subject.

EXPLANATORY NOTES

1. See Sec. 37 of Art. 3, Texas Constitution. It has long been held that the requirement of Subsection (a) of this section is satisfied if a bill is reported out of a committee of one of the two houses within the time described, three days of final adjournment. Regardless of this holding, long followed, speakers have historically refused to admit motions to suspend the rules so as to keep senate bills from going to house committees. They have contended that to allow such would be a violation of the spirit of Sec. 37 of Article 3 as well as legislative committee rules generally, since the two houses of the legislature are of equal importance and each requires committee consideration of its own bills without exception.

2. Subsection (a) above applies alike to regular and called sessions.

Section 12. Order of Consideration — All bills and resolutions before the house shall be taken up and acted on in the order in which they appear on their respective calendars, and each calendar shall have the priority accorded to it by the provisions of Rule 6, Sections 7 and 8.

EXPLANATORY NOTES

See also Rule 6, Sec. 15, on order of consideration of calendars.

Section 13. Deadlines for Consideration — (a) No house bill that is local as defined by Section 10(c) of this rule and that appears on a local, consent, and resolutions calendar shall be considered for any purpose after the 130th day of a regular session, except to:

(1) act on senate amendments;
(2) adopt a conference committee report;
(3) reconsider the bill to make corrections; or
(4) pass the bill notwithstanding the objections of the governor.

(b) No other house bill or joint resolution shall be considered on its second reading after the 122nd day of a regular session if it appears on a daily or supplemental daily house calendar, or for any purpose after the 123rd day of a regular session, except to:

(1) act on senate amendments;
(2) adopt a conference committee report;
(3) reconsider the bill or resolution to make corrections; or
(4) pass the bill notwithstanding the objections of the governor.

(c) No senate bill or joint resolution shall be considered on its second reading after the 134th day of a regular session if it appears on a daily or supplemental daily house calendar, or for any purpose after the 135th day of a regular session, except to:

(1) adopt a conference committee report;
(2) reconsider the bill or resolution to remove house amendments;
(3) reconsider the bill or resolution to make corrections; or
(4) pass the bill notwithstanding the objections of the governor.

(d) The speaker shall not lay any bill or joint resolution before the house or permit a vote to be taken on its passage on the 136th and 137th days of a

regular session, except to:

(1) act on senate amendments;
(2) adopt a conference committee report;
(3) reconsider the bill or resolution to remove house amendments;
(4) reconsider the bill or resolution to make corrections; or
(5) pass the bill notwithstanding the objections of the governor.

(e) The speaker shall not lay any bill or joint resolution before the house or permit a vote to be taken on its passage on the 138th and 139th days of a regular session, except to:

(1) adopt a conference committee report;
(2) reconsider the bill or resolution to remove house amendments;
(3) discharge house conferees and concur in senate amendments;
(4) reconsider the bill or resolution to make corrections; or
(5) pass the bill notwithstanding the objections of the governor.

(f) No vote shall be taken upon the passage of any bill or resolution within 24 hours of the final adjournment of a regular session unless it be to reconsider the bill or resolution to make corrections, or to adopt a corrective resolution.

EXPLANATORY NOTES

"Final adjournment" means sine die adjournment of a session.

HOUSE PRECEDENTS

1. POINT OF ORDER RELATIVE TO SETTING BACK THE HANDS OF THE CLOCK NEAR THE END OF A SESSION. — Mr. Tillotson raised a point of order, stating that the hands of the clock in the hall of the house had been set back, and that the clock should be set at the correct time. He contended that the hour set for final adjournment of the session had actually passed and that the house was not legally in session.

The speaker, Mr. Bobbitt, overruled the point of order, and Mr. Tillotson appealed from the ruling of the chair. The appeal was duly seconded. The house sustained the ruling of the chair by a vote of 90 to 24. (40 H.J. 1 C.S. 602 (1927)).

The point of order is raised every session, and just as regularly overruled. Such a ruling is justified by necessity, custom, and precedent. It is usually impossible to wind up the business of a session within the exact number of hours remaining after the twenty-four hour rule and other end-of-the-session rules are in force. In fact, it is customary to suspend most of these rules for specific purposes in order to complete the session's business. Occasionally, when final action has been taken by the house on lengthy bills late in the session, it is difficult to get those bills enrolled in time. Many times the principal work of a session has been saved by turning back the clock for a few hours.

2. AFTER THE HOUR SET FOR FINAL ADJOURNMENT HAS ARRIVED THE SPEAKER REFUSES TO ACCEPT ANY BUSINESS EXCEPT PURELY ROUTINE MATTERS INCIDENT TO COMPLETION OF SESSION'S BUSINESS. — On the last day of the regular session of the 49th Legislature, the hour set for final adjournment having actually arrived, though not so indicated by the house clock, the speaker, Mr. Gilmer, refused to accept any business involving a decision of

the house, except purely routine matters and those necessary to the conclusion of the session, such as signing of bills and resolutions in the presence of the house, reports of notification committees, and the like. The speaker earlier had notified the house of his intention and received unanimous approval. It was still necessary, as usual, to turn back the hands of the house clock, as described above. This new procedure has many advantages and has become the rule. (49th Reg.)

Section 14. Printed Copies Required Prior to Consideration — (a) A printed copy of each bill or resolution, except the general appropriations bill, shall be placed in the newspaper mailbox of each member at least 36 hours if convened in regular session and 24 hours if convened in special session before the bill can be considered by the house on second reading. A printed copy of the general appropriations bill shall be placed in the newspaper mailbox of each member at least 168 hours during a regular session and at least 72 hours during a special session before the bill can be considered by the house on second reading.

(b) By majority vote, the house may order both the original bill or resolution and the complete committee substitute to be printed. It shall not be necessary for the house to order complete committee substitutes printed in lieu of original bills.

(c) A two-thirds vote of the house is necessary to order that bills, other than local bills, be not printed. It shall not be necessary for the house to order that local bills be not printed.

EXPLANATORY NOTES

1. See Rule 4, Secs. 28 and 29, in regard to minority reports, particularly as to the printing of bills on minority report.

2. Committees have no authority to order not printed bills which they report favorably, except local bills, even though such bills may be considered uncontested, and the chief clerk should disregard such recommendations and send the bills to the printer as required in the above section. A two-thirds vote of the house, by way of a suspension of the rules, is necessary to order bills, other than local bills, not printed.

3. A "complete committee substitute" takes the form of a complete bill with a title, enacting clause and text of the bill.

4. If, for some reason, usually a clerical error, a committee fails to order a local bill not printed, it should be sent to the printer unless, by majority vote, the house orders it not printed.

Section 15. Requirement for Three Readings — A bill shall not have the force of law until it has been read on three several legislative days in each house and free discussion allowed, unless this provision is suspended by a vote of four-fifths of the members present and voting, a quorum being present. The yeas and nays shall be taken on the question of suspension and entered in the journal.

EXPLANATORY NOTES

1. "Days" as used in Sec. 32 of Art. 3 of the constitution has repeatedly been held to mean "legislative days." A "legislative day"

is that period from a convening following an adjournment until the next adjournment. The most common daily session pattern is for the house to meet at 10 a.m., recess for lunch, and adjourn at 5:00 p.m. A legislative day is thus completed on the particular calendar day. But, if at the end of the day (or any other time) the house recesses, the particular legislative day continues. Often a single legislative day will span several calendar days. Also, parts of two legislative days will often fall on a single calendar day, this occurring when the house adjourns and meets again on the same calendar day. It is possible, therefore, to have as much as a fraction of one legislative day and the whole of the next legislative day on the same calendar day, this occurring when the house meets in the morning following a recess, adjourns until 2:30 p.m., for example, and then adjourns later in the day until a future day. It is not possible, however, to create two complete legislative days on the same calendar day; for example, a morning meeting following an adjournment from a previous day, followed by an adjournment before noon until afternoon, followed by a convening in the afternoon, pursuant to the adjournment, and then an adjournment later in the day — constituting two complete legislative days — would not be permitted. As noted, "days" in Sec. 3 of Art. 3 have always been held to be "legislative days." Thus it is possible, since parts of two legislative days (sometimes a fraction and a whole) can occur on the same calendar day, it is possible to place a bill on two readings in the same calendar day without having to suspend the constitutional rule. Within a single legislative day, however, a constitutional rule suspension must occur if a bill is to be read twice.

2. The motion to reconsider may not be applied to a vote to suspend the constitutional rule requiring bills to be read on three several days. If a motion to suspend fails, and, if accepted by the speaker, a new motion may be made, usually after intervening business, but not when another matter is pending.

HOUSE PRECEDENTS

1. INTERPRETATION OF THE MEANING OF "DAYS" AS FOUND IN THE CONSTITUTIONAL REQUIREMENT THAT BILLS BE READ ON "THREE SEVERAL DAYS." — The house met at 10 a.m. on April 1, 1954, on recess from the previous day. Later in the day H.B. 8 was read second time and ordered engrossed. The house then adjourned for a few minutes and was called to order on a new legislative day. When H.B. 8 was again laid before the house and read third time Mr. Bergman raised the point of order against "further consideration of House Bill 8 on third reading for the reason that Article 3, Section 32 of the Constitution of Texas provides that no bill shall have the force of a law until it has been read on three several days in each house and free discussion allowed thereon. The term 'three several days,' as used in the Constitutional provision, had reference to calendar days as known and applied at the time of the adoption of the Constitution, and the fiction of 'legislative days,' as used in the Rules of the House, cannot have the force and effect of changing the meaning of the term 'several days,' as used in the Constitution. This bill having been considered and passed to engrossment this morning, April 1, 1954, and this being the afternoon of April 1, 1954, is not properly before the House for consideration."

The speaker, Mr. Senterfitt, overruled the point of order stating that

the procedure followed in this case was exactly the same as followed previously in the session and had long been the established practice of the house, i.e., "days" as used in Sec. 32 of Art. 3 had for more than fifty years, at least, been held to be "legislative days" - a legislative day being the period between a convening following an adjournment and the next adjournment. (53 H.J. 1 C.S. 231 (1953)).

2. INSTANCE WHEREIN THE CONSTITUTIONAL RULE REQUIRING BILLS TO BE READ ON THREE SEVERAL DAYS WAS SUSPENDED BEFORE THE BILL WAS PLACED ON SECOND READING AND IN ANTICIPATION OF ITS LATER PASSAGE TO ENGROSSMENT; COMMENTS ON "LEGISLATIVE DAYS." — The house suspended the rules for the purpose of considering H.B. 11, an omnibus tax bill. Just as the speaker was preparing to lay the bill before the house on second reading (it having been read first time on a previous legislative day and reported from a committee) Mr. Zbranek moved to suspend the constitutional rule requiring bills to be read on three several days so that in the event H.B. 11 passed to engrossment on that legislative day it could immediately be placed on third reading and finally passed. The motion prevailed by the necessary four-fifths vote. (56th, 3rd C.S.)

This is the only known instance of such a suspension before the time needed therefor, and was the solution of a unique situation. It was believed by the mover that a suspension vote prior to second reading, debate, amendment, and passage to engrossment would be successful whereas after passage to engrossment, which could be by a majority vote, a four-fifths vote for suspension might not be obtained. Lacking a precedent to the contrary, and noting that no constitutional limitation existed on just when such a motion could be made, the speaker, Mr. Carr, allowed the motion. However, there is considerable doubt regarding the need for or advantage of such a departure from the long-established practice relating to this motion to permit a premature suspension as described. Such is not necessary, certainly the proceeding is of doubtful value, and, of greater importance, the house should know the exact substance of a bill passed to engrossment before it votes on the motion to suspend the constitutional rule.

3. CASE WHERE THE CONSTITUTIONAL RULE REQUIRING BILLS TO BE READ ON THREE SEVERAL DAYS HAD TO BE SUSPENDED A SECOND TIME. — The house was considering Senate Bill No. 375 on second reading. It was passed to third reading, the constitutional rule was suspended, and the bill was placed on its third reading. After consideration the house reconsidered the vote by which it was passed to its third reading. After amending the bill, the house again passed it to its third reading. The speaker, Mr. Minor, held that since the bill had been amended, it would be necessary to again suspend the constitutional rule before it could be placed on its third reading on that legislative day. (42nd Reg.)

Section 16. Consideration Section by Section — (a) During the consideration of any bill or resolution, the house may, by a majority vote, order the bill or resolution to be considered section by section, or department by department, until each section or department has been given separate consideration. If such a procedure is ordered, only amendments to the section or department under consideration at that time shall be in order. However, after

each section or department has been considered separately, the entire bill or resolution shall be open for amendment, subject to the provisions of Rule 11, Section 8(b). Once the consideration of a bill section by section or department by department has been ordered, it shall not be in order to move the previous question on the entire bill, to recommit it, to lay it on the table, or to postpone it, until each section or department has been given separate consideration or until the vote by which section by section consideration was ordered is reconsidered.

(b) A motion to consider a bill section by section is debatable within narrow limits; that is, the pros and cons of the proposed consideration can be debated but not the merits of the bill.

Section 17. Passage to Engrossment or Third Reading — After a bill or complete committee substitute for a bill has been taken up and read, amendments shall be in order. If no amendment is made, or if those proposed are disposed of, then the final question on its second reading shall be, in the case of a house bill, whether it shall be passed to engrossment, or, in the case of a senate bill, whether it shall pass to its third reading. All bills ordered passed to engrossment or passed to a third reading shall remain on the calendar on which placed, but with future priority over bills on the same calendar that have not passed second reading.

EXPLANATORY NOTES

1. A committee has the power to suggest individual amendments, and these amendments must be offered from the floor by some member. If not offered from the floor, they should not be considered.
2. House bills "ordered engrossed" must actually be engrossed and returned to the speaker's desk before they can be laid before the house on third reading, unless the constitutional rule requiring bills to be read on three several days is suspended, in which case practice of long-standing foregoes actual engrossment at this stage, the four-fifths vote needed for such suspension being considered in effect a simultaneous suspension (only a two-thirds vote needed) of the above section insofar as the actual engrossment requirement is concerned. Such bills are engrossed before they are sent to the senate.
3. Engrossed "riders" (amendments adopted on second reading) may be used in lieu of full engrossment on second reading passage.
4. See Rule 11, Sec. 7, and associated annotations on precedence of amendments.
5. See Rule 6, Sec. 15, on order of consideration of calendars.

Section 18. Certification of Final Passage — The chief clerk shall certify the final passage of each bill, noting on the bill the date of its passage, and the vote by which it passed, if by a yea and nay vote.

HOUSE PRECEDENTS

NOT IN ORDER TO DIRECT THE CHIEF CLERK TO MAKE ANY CHANGES IN A BILL WHICH HAS PASSED THE HOUSE AND BEEN SENT TO THE SENATE. — The house was considering H.S.R. 190 by Mr. Zivley. The resolution recited actions by the House in amending

H.B. 132, and directing the engrossing clerk to send to the senate a "corrective" amendment to be attached to the bill.

Mr. Hull raised the point of order on further consideration of the resolution on the ground that the resolution was an attempt to amend a bill which had passed the house and was then in the senate.

The speaker, Mr. Senterfitt, sustained the point of order. A bill must be recalled to make any changes therein. (53 H.J. Reg. 917 (1953)).

Section 19. Effective Date — Every law passed by the legislature, except the General Appropriations Act, shall take effect or go into force on the 91st day after the adjournment of the session at which it was enacted, unless the legislature provides for an earlier effective date by a vote of two-thirds of all the members elected to each house. The vote shall be taken by yeas and nays and entered in the journals.

EXPLANATORY NOTES

1. The attorney general has held consistently that a concurrent resolution, passed subsequent to the passage of a bill, which failed to receive the required two-thirds vote in its passage, could not put the bill into immediate effect, even though it declared legislative intent and the bill contained the required emergency clause. (The requirement for an emergency clause has since been eliminated by a constitutional amendment approved by the voters in 1999.) See Opinions Nos.: O-95, O-1717, O-3697, and V-867. However, in Opinion No. V-850, the attorney general held that the date for the submission of a proposed amendment to the constitution could be changed by the adoption of a joint resolution setting a new one. In this latter case the same legislative method, a joint resolution, was used in both actions.

2. On rare occasion a clerk has accidentally shown incorrect votes in endorsements relating to final passage of bills. The attorney general has ruled (Opinion O-5171a) that in such matters the journals control, if they differ from the endorsements on the enrolled bills. There have been several instances where bills were recalled from the governor and the endorsements corrected.

3. Whenever a bill with the appropriate effective date language receives the necessary two-thirds vote and is signed by the governor, or becomes a law by absence of a veto, its terms become effective immediately. If, however, there is a specific recitation in the act which determines its effective date, then such controls. If such a recitation is contained in an act which does not receive the necessary two-thirds vote and such date is prior to ninety days after adjournment, then such specific recitation is of no effect, and the bill becomes effective ninety days after adjournment.

Section 20. Bills Containing Same Substance as Defeated Bill —After a bill or resolution has been considered and defeated by either house of the legislature, no bill or resolution containing the same substance shall be passed into law during the same session.

EXPLANATORY NOTES

See Const., Art. 3, Sec. 34.

HOUSE PRECEDENTS

1. HELD THAT A BILL DEFEATED IN THE SENATE COULD BE CONSIDERED IN THE HOUSE. — In the 26th Legislature (journal, p. 415) a point of order was made on consideration of a bill in the house because the senate had considered and defeated a bill containing the same subject matter. The speaker held the point of order not well taken. A point of order of this kind must be decided on the actual facts in the case; a bill might be similar, even containing apparently the same substance, and yet be so different as not to come within the rule. If the senate has officially reported the defeat of a particular measure, a point of order on consideration of a similar measure in the house would stand or fall according to whether or not the presiding officer of the house thinks the measure being considered in the house contains the same "substance" as the measure defeated in the senate. See the following precedent.

2. HELD THAT A BILL DEFEATED IN THE SENATE COULD BE CONSIDERED IN THE HOUSE. — The speaker laid before the house as a special order House Bill No. 44 on its second reading and passage to engrossment.

Mr. Thomason raised a point of order on consideration of the bill on the ground that the house has official notification that the senate has defeated a bill containing the same substance.

The speaker, Mr. Thomas, overruled the point of order, stating that while the constitution prohibits the passage by either house of a bill after being officially notified of a defeat by the other house of a bill containing the same substance, it does not prohibit its consideration. (37 H.J. Reg. 425 (1921)).

The contention of the speaker was that it was entirely possible for the house to amend the bill and so change it by germane amendments as to make it agreeable to the senate.

Section 21. Consideration of Bills Involving State Funds — (a) In order to assure the continuation of financial support of existing state services through the passage of the general appropriations bill, it shall not be in order during the first 118 days of the regular session for the speaker to lay before the house, prior to the consideration, passage, and certification by the comptroller of the general appropriations bill, any bill that directly or indirectly prevents from being available for purposes of funding state government generally any money that under existing law would otherwise be available for that purpose, including a bill that transfers or diverts money in the state treasury from the general revenue fund to another fund.

(b) In order to assure compliance with the limitation on appropriations of state tax revenue not dedicated by the constitution as provided by Article VIII, Section 22, of the Texas Constitution, it is not in order for the speaker to lay before the house, prior to the time that the general appropriations bill has been finally passed and sent to the comptroller, any bill that appropriates funds from the state treasury that are not dedicated by the constitution.

(c) When bills subject to the provisions of Subsection (a) of this section become eligible for consideration, they shall be considered for passage under

the rules of the house and the joint rules as any other bill but shall not be signed by the speaker as required by the Constitution of Texas and the rules of the house until the general appropriations bill has been signed by the presiding officers of both houses of the legislature and transmitted to the comptroller of public accounts for certification as required by Article III, Section 49a, of the Constitution of Texas.

(d) All bills subject to the provisions of Subsection (a) of this section that have finally passed both houses shall be enrolled as required by the rules and transmitted to the speaker. The speaker shall note on each bill the date and hour of final legislative action and shall withhold his or her signature and any further action on all such bills until the general appropriations bill has been signed by the presiding officers of both houses and transmitted to the comptroller of public accounts for certification. Immediately thereafter, the speaker shall sign in the presence of the house all bills on which further action was being withheld because the bills were subject to the provisions of this section. After being signed by the speaker, the bills shall then be transmitted to the comptroller of public accounts for certification or to the governor, as the case may be, in the order in which final legislative action was taken. "Final legislative action," as that term is used in this subsection, shall mean the last act of either house meeting in general session necessary to place the bill in its final form preparatory to enrollment.

(e) Subsections (a)-(d) of this section shall not apply to any bills providing for:

(1) the payment of expenses of the legislature;

(2) the payment of judgments against the state;

(3) any emergency matter when requested by the governor in a formal message to the legislature; or

(4) the reduction of taxes.

(f) Unless within the authority of a resolution or resolutions adopted pursuant to Article VIII, Section 22(b), of the Texas Constitution, it is not in order for the house to consider for final passage on third reading, on motion to concur in senate amendments, or on motion to adopt a conference committee report, a bill appropriating funds from the state treasury in an amount that, when added to amounts previously appropriated by bills finally passed and sent or due to be sent to the comptroller, would exceed the limit on appropriations established under Chapter 316, Government Code.

(g) The general appropriations bill shall be reported to the house by the Committee on Appropriations not later than the 90th calendar day of the regular session. Should the Committee on Appropriations fail to report by the deadline, Subsections (a)-(d) of this section shall be suspended for the balance of that regular session.

EXPLANATORY NOTES

1. See Sec. 4 of this rule, concerning changing general law through an appropriations bill.

2. Since Sec. 49a of Art. 3 of the constitution has become effective,

whenever an appropriation bill is finally passed, the speaker declares, "The bill is finally passed subject to the provisions of Sec. 49a of Art. 3 of the Constitution." This declaration is made and noted on the bill when such a bill is "finally passed" on its third reading, when senate amendments thereto are concurred in, or when a conference report thereon is adopted. Whenever the bill is finally passed by both houses, the chief clerk, if it is a house bill, enrolls the bill and then takes it to the comptroller for certification required in Sec. 49a. The comptroller then returns the bill to the chief clerk and the bill is taken to the governor in the usual manner.

If, through an oversight, the speaker fails to make the declaration referred to, and it becomes apparent to the chief clerk that the bill does in fact contain an appropriation, the chief clerk should nevertheless show the bill passed subject to Sec. 49a of Art. 3 and take it to the comptroller for certification.

ADDITIONAL NOTES ON BILLS

RECALL OF BILLS AND RESOLUTIONS

EXPLANATORY NOTES

1. Frequently concurrent resolutions are passed authorizing the correction of errors in bills in the process of being enrolled, and it is often necessary to recall bills from the governor for correction. Such recall is done by concurrent resolution, usually originating in the house in which the bill originated.

2. "Corrective" resolutions should be strictly of that character, it not being allowable under the rules to make changes in substance. To allow such would set a dangerous precedent, because there would be no way of drawing a line as to what could and what could not be changed by such a resolution. If such practice were allowed, an act that passed both houses under the constitutionally specified three-reading procedure, could be set aside or changed in whole or in part. However, over recent years both houses have accepted resolutions (concurrent) which authorized many and various types of corrections in the general appropriations bill after adoption of the conference report relating thereto. At times these "corrections" have been to insert unintended omissions due to clerical errors, to remedy obviously faulty wording, and to eliminate any contradictions between provisions. Generally speaking, the houses have accepted genuine corrections, as explained by the Chairmen of the Committees on Appropriation and Finance, even though such "corrections" are admittedly broader in character than would be allowed through resolutions for other bills. Such course of action has been deemed preferable to recommitting the bill to conference, since under such procedure the entire subject matter of the appropriation bill would thereby be reopened.

3. When it becomes necessary to recall a bill from the governor, the house in which the bill originated should pass a resolution such as the following:

"Resolved by the . . . . . Legislature of the State of Texas, that the Governor be and is hereby requested to return to the . . . . . Bill No. . . .,

for further consideration; and be it further

Resolved, that the action of the Speaker and the President of the Senate in signing . . . Bill No. . . . be declared null and void, and that the two presiding officers be authorized to remove their signatures from the enrolled bill."

If only a simple correction is involved, this additional clause should appear in the resolution: "and be it further Resolved, that the chief clerk of the house (or the enrolling clerk of the senate) be and is hereby directed to correct the enrolled copy of . . . Bill No. . . . in the following manner — (here should follow an exact description of the correction)."

This resolution, having been adopted by both houses and properly signed by the two presiding officers, should be officially communicated to the governor, whereupon the governor will doubtless return the bill by message to the house in which it originated. In turn, the presiding officers will remove their signatures.

If further consideration of the bill is involved, every step must be retraced in regular order until the bill is again at a stage which permits the desired action.

CONGRESSIONAL PRECEDENTS

CORRECTION OF ERRORS IN BILLS — RECALL. — It is a common occurrence for one house to ask the other (by simple resolution or motion) to return a bill for correction or otherwise (4 H.P. 3460-3464). There being an error in an engrossed house bill sent to the senate, a request was made that the clerk be permitted to make correction (4 H.P. 3465). The correction of an enrolled bill is sometimes ordered by concurrent resolution (4 H.P. 3446-3450).

MOTION TO RESCIND

HOUSE PRECEDENTS

A BILL HAVING BEEN DEFEATED, AND A MOTION TO RECONSIDER THE VOTE BY WHICH IT WAS DEFEATED BEING LAID ON THE TABLE, A MOTION TO RESCIND THE VOTE BY WHICH THE HOUSE TABLED THE MOTION TO RECONSIDER IS NOT IN ORDER. SUCH MOTION IS NOT RECOGNIZED BY THE RULES. — Mr. Savage moved to rescind the vote by which the house, on February 10, tabled the motion to reconsider the vote by which House Bill No. 4, known as the "full crew bill," was on that day lost.

Mr. Kennedy raised a point of order "that the motion to rescind is out of order; that such a motion, if carried, would abrogate the Rules of the House, which provide for the reconsideration of all matters adopted by the House, and that the motion must be made by a Member of the majority, or prevailing side, and must be made on the same or next sitting day before the order for the day is taken up, and that one day's notice must be given before the motion can be called up and disposed of. The Rules of the House further provide that where a motion to table prevails that motion cannot be reconsidered. Immediately after House Bill No. 4 was defeated on engrossment, a motion to reconsider that vote was made, and the motion to reconsider was tabled. The motion to rescind is but another method of reconsideration, and is now made by a gentleman who voted with the losing side and made several days

after the House defeated the bill which he now proposes to revive. The adoption of his motion would establish a dangerous precedent. It would mean an interminable conflict over bills that, under the Rules, have been killed."

In sustaining the point of order raised by the gentleman from Kerr, Mr. Kennedy, the speaker, Mr. Terrell, gave the following reasons:

"Rule 14, Section 1, (now revised as Rule 7, Sec. 37) provides as follows: 'When a motion has been made and carried or lost, or an amendment, resolution or bill voted upon, it shall be in order for any Member of the prevailing side to move for a reconsideration thereof, on the same day or the next sitting day, before the order of the day is taken up.'

Rule 12, Section 7, (now revised as Rule 7, Sec. 12) provides as follows: 'A motion to lay on the table, if carried, shall have the effect of killing the bill, resolution or other immediate proposition tabled.'

Article 3, Section 34, of the Constitution, provides: 'After a bill has been considered and defeated by either House of the Legislature, no bill containing the same substance shall be passed into law during the same session.'

House Bill No. 4 was considered fully by the House, and after lengthy debate was defeated; a motion to reconsider and table was made, which motion carried, and, in the opinion of the Chair, the motion to table the motion to reconsider killed the bill. It is just as important to the House to be able to kill a bill as it is to pass it. If a motion to rescind could be made, the motion to reconsider and table would be without value, and if one motion to rescind could be made, such a motion could be made every day in the Session, and thus waste the time and thwart the will of the House deliberately expressed when the bill was defeated.

The Speaker is aware of the action of the House in the Twenty-sixth, Twenty-eighth and Twenty-ninth Legislatures and also familiar with the rulings of the Thirty-second Legislature dealing with the question of rescinding, and he is unhesitatingly of the opinion that the rulings made by Speaker Rayburn in the Thirty-second and by the present Speaker, who was in the Chair during the same session, were correct.

If a motion to rescind could be made on the defeat of any bill, it could also be made after the passage of a bill, and in this way defeat the expressed will of the House. A motion to rescind must be based on the proposition that the only way to defeat a bill is by final adjournment, and if that be true, the provision of Section 34 of Article 3 of the Constitution would be meaningless.

For the above reasons, the Speaker sustains the point of order." (33 H.J. Reg. 832 (1913)).

REVENUE BILLS

HOUSE PRECEDENTS

1. THE HOUSE REFUSES TO ACCEPT A REVENUE-RAISING (TAX BILL) FROM THE SENATE. — The senate bill having for its purpose the taxing of pool halls was laid before the house and read first time.

Mr. Terrell of Bexar made the point of order that it is a measure for the purpose of raising revenue and cannot be received by the house from the senate, and that the chair should have it returned to the senate

with the suggestion that all bills for raising revenue must, under the constitution, originate in the house of representatives, and the house is therefore compelled to return it to the senate.

The speaker, Mr. Rayburn, sustained the point of order and the chief clerk was instructed to return the bill to the senate. (32 H.J. Reg. 864 (1911)).

2. HELD THAT THE BILL CREATING A FUND TO PAY THE STATE HIGHWAY ENGINEER BY CHARGING A LICENSE FEE FOR THE REGISTRATION OF MOTOR VEHICLES IS NOT A REVENUE MEASURE OF SUCH CHARACTER AS TO PREVENT ITS ORIGINATING IN THE SENATE. — The house was considering Senate Bill No. 8, creating a State Highway Department and providing for the appointment of a state highway engineer, and prescribing the duties of each and fixing the compensation of the engineer; creating a fund by the license of motor vehicles, etc., when Mr. Broughton made a point of order on further consideration of the bill on the ground that it was a bill raising revenue, and, under the provisions of the constitution, should originate in the house of representatives.

The speaker, Mr. Terrell, overruled the point of order. (33 H.J. Reg. 1577 (1913)).

3. INTERPRETATION OF SECTION 33 OF ART. 3 OF THE CONSTITUTION WHICH REQUIRES THAT REVENUE-RAISING MEASURES ORIGINATE IN THE HOUSE. — The house was considering S.B. 6 which increased the tuition and certain other fees at state-supported institutions of higher education. Mr. Johnston and Mr. Townsend jointly raised a point of order that the bill was not properly before the house since it was a revenue-raising measure originating in the senate, and that under the provisions of Sec. 33 of Art. 3 of the constitution revenue-raising measures must originate in the house. They pointed out that earlier in the session the speaker had held the bill to be within the governor's call because it was a revenue-raising measure.

In overruling the point of order, the speaker, Mr. Carr, cited cases in Vernon's Constitution of the State of Texas Annotated which held generally that Sec. 33 "applies to bills to levy taxes in the strict sense of the word, and not to bills for other purposes which may incidentally raise revenue." Regarding the earlier ruling, which had been referred to, Mr. Carr quoted the wording of the governor's call which clearly included any bill to raise revenue by whatever means, not just through taxation. He noted that a bill to produce additional revenue for the institutions of higher education by an increase in fees, would, to a certain extent at least, relieve the general revenue fund. (56 H.J. 2 C.S. 697 (1959)).

4. INTERPRETATION OF SECTION 33 OF ART. 3 OF THE CONSTITUTION WHICH REQUIRES THAT REVENUE-RAISING MEASURES ORIGINATE IN THE HOUSE. — The house was considering S.B. 15 to allow pari-mutuel wagering in Texas. Mr. David Hudson raised a point of order against further consideration of S.B. 15 in that it violates Article III, Section 33, of the Texas Constitution, which states that all bills for raising revenue shall originate in the House of Representatives, but the Senate may amend or reject them as it may other bills.

Speaker Gib Lewis's ruling follows:

"Generally, a bill for raising revenue is a bill the primary purpose of which is to levy a tax on the public to defray the actual costs of the government and for which the public does not receive a specific benefit in return. If the primary purpose of a bill does not involve raising revenue, but the bill contains a provision that incidentally raises revenue, the bill is not a revenue-raising bill within the meaning of Article III, Section 33.

The chair feels that the subject of S.B. 15 is to allow pari-mutuel wagering in Texas and is not a measure the primary purpose of which is to raise revenue and therefore is not a revenue-raising bill within the meaning of Article III, Section 33.

Therefore, the chair respectfully overrules the point of order." (69 H.J. 2nd C.S. 189 (1986)).

SPECIAL SESSION — LEGISLATION THAT MAY BE CONSIDERED

EXPLANATORY NOTES

1. Section 40 of Article 3 of the state constitution reads in applicable part:

"When the Legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, or presented to them by the Governor."

Traditionally, it has been held that the legislature has broad discretion within the boundaries of the subjects submitted by the governor during a called session. The speaker is required to determine from time to time whether specific items of legislation are within the parameters of the subjects the governor has submitted. In making these determinations, the speaker is guided by the practice consistently followed by presiding officers of the house and permits the broadest latitude of legislative consideration within the limits of the constitution. Only with free and open consideration of all the issues raised by the subjects the governor has laid before the legislature can representative government function as the framers of our constitution intended. See the House precedents below for further information on this matter.

2. In called sessions occurring in recent years two distinct plans of procedure have been followed by speakers in dealing with bills embodying subjects not submitted by the governors in their calls or messages. Under the first plan, which is current practice, the speaker gives all introduced bills a first reading and then refers them to appropriate committees without regard as to whether they fit within the stated purposes of the called session. This procedure does not diminish the right of a member to later challenge a measure on the ground that it does not relate to a subject submitted by the governor. This procedure does, however, activate the important committee operations of the house and has proven in the past to expedite significantly the consideration of subjects that the governor may later submit to a called session.

Under the second plan, which follows strictly the provisions of the constitution, the speaker reviews all bills filed with the chief clerk, or coming from the senate, to determine if their subject matter has been submitted by the governor. He will then admit to first reading only

those that are so covered. The reasoning behind this plan is that it may protect both members of the legislature and the governor from needless and often unfair pressures.

It is generally conceded that if a bill, not within the governor's call or later submissions, is passed by the legislature and signed or filed by the governor (not vetoed), it will become law.

3. It is uniformly held that the subject matter of house and concurrent resolutions does not have to be submitted by the governor before they can be considered at a special session. See Rule 10, Sec. 7.

HOUSE PRECEDENTS

1. DECISIONS REGARDING SUBJECT MATTER ALLOWED UNDER GOVERNOR'S CALL AT A SPECIAL SESSION; ALSO TEST OF WHETHER OR NOT SUBJECT MATTER OF AMENDMENTS COME UNDER GOVERNOR'S CALL. — Mr. John R. Lee raised the point of order that an amendment to H.B. 6 by Mr. Murray Watson did not come within the call of the governor convening the special session. Speaker Waggoner Carr's ruling follows:

"Article 3, Sec. 40 of the Constitution of Texas reads as follows:

'When the Legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, or presented to them by the Governor.'

There are several court decisions interpreting Art. 3, Sec. 40 that have a direct bearing on this question.

1. It was not the intention of this section to require the Governor to define with precision as to detail the subject of legislation, but only in a general way, by his call, to confine the business to the particular subjects. Brown vs. State, 32 Cr. App., 133; 22 S.W., 601; Long vs. State, 58 Cr. App., 209; 127 S.W., 208.

2. It is not necessary nor proper for the Governor to suggest in detail the legislation desired. It is for the Legislature to determine what the legislation shall be. Brown vs. State, 32 Cr. App., 133; 22 S.W., 601.

3. This section of the Constitution does not require the proclamation of the Governor to define the character or scope of legislation, but only in a general way to present the subjects for legislation. Long vs. State, 58 Cr. App., 209; 127 S.W., 208.

4. The Constitution does not require the proclamation of the Governor to define the character or scope of legislation which may be enacted at a special session but only in a general way to present the subjects for legislation, and thus confine the business to a particular field which may be covered in such way as the legislature may determine. Baldwin v. State, 21 Tex. App. 591; 3 S.W. 109; Devereaux v. City of Brownsville (C.C.) 29 Fed. 742.

5. Governor's proclamation or messages, submitting subject of legislation to special session under Art. 3, Sec. 40, need not state the details of the legislation to be considered; such matters being within the discretion of Legislature.

The gist of these opinions is that the legislature is not held to strict interpretation of 'subject' submitted in the Governor's call, but rather

that it has the authority to determine the specific details of legislation as long as they come generally within the call. And it seems clear that the Governor could not restrict the legislature to a particular bill or plan of legislation.

Item 4 of the Governor's proclamation concerning this session reads as follows:

4. 'To create and finance a statewide water planning agency to work in cooperation with State, local and Federal agencies in conducting research and planning for an over-all program of water conservation and flood control with authority to contract for water conservation storage in Federal reservoirs to be paid for out of revenue.'

Establishment of the precedent of having to rule on whether or not such amendment offered comes within the Governor's call would be cumbersome and useless. Rather, it would seem the part of reason to apply the rule that if a bill is within the Governor's call then it would follow logically that any germane amendment falls within the call. Germaneness would then become the critical tests as to whether or not an amendment comes within the Governor's call, so long, of course, as the bill itself comes within the Governor's call.

With regard to the Watson amendment to the committee amendment, the Chair has heretofore refused to rule it out as not germane, realizing at the time that the question was close, since H.B. 6 and Committee Amendment No. 1 have within their provisions a reaffirmation, at least, of a portion of the present law dealing with 200-acre-feet reservoirs, thereby exposing such provision to amendment.

In this case, the bill appears clearly within the Governor's call. Consequently, the point of order that the amendment does not fall within the call of the Governor is respectfully overruled."

2. DECISION RELATING TO WHETHER BILL CAME WITHIN GOVERNOR'S CALL PASSED TO HOUSE. — In the 55th Legislature, 1st Called Session, the speaker, Mr. Carr, in the light of a unique set of circumstances, and under a rarely-used procedure, passed directly to the house the decision as to whether or not a particular bill came within the governor's call. (55 1st C.S. 156 (1957)).

3. DECISION REGARDING SUBJECT MATTER ALLOWED UNDER GOVERNOR'S CALL AT A SPECIAL SESSION. — Mr. David Hudson raised a point of order against further consideration of S.B. 15 in that it violates Article IV, Section 8, and Article III, Section 40 of the Texas Constitution.

Speaker Gib Lewis's ruling follows:

"Article IV, Section 8, of the Texas Constitution requires the governor, when convening the legislature in called session, to specify the purposes for which the session is convened.

Article III, Section 40, of the constitution restricts the scope of legislative consideration to bills and proposed constitutional amendments embraced by those subjects that the governor submits. Within the boundaries of these subjects, however, this body has broad discretion. It is the legislature's responsibility to determine the manner in which these subjects are to be addressed.

The chair may be required to determine from time to time whether specific items of legislation are within the parameters of the subjects the governor has submitted. In making these determinations, the chair will be guided by the practice consistently followed by presiding officers of

this house and permit the broadest latitude of legislative consideration within the limitations of the constitution. Only with free and open consideration of all the issues raised by the subjects the governor has laid before us can representative government function as the framers of our constitution intended.

As a general rule, legislative power is plenary except when the constitution has imposed limits on it. When limitations such as Article III, Section 40, are imposed, they are an exception to the general rule and must be strictly construed. Long v. State, 127 S.W. 208 (Tex. Crim. App. 1910).

Strict construction of the governor's power under Article III, Section 40, results in three conclusions: (1) that the limitations imposed by the governor's proclamation calling a special session do not restrict the general power of the legislature unless the limitations clearly inhibit the act in question; (2) that the governor may not limit the legislature to detailed legislation rather than a general subject; and (3) that the legislature has broad power to determine what the subject is.

As an example, in Baldwin v. State, 3 S.W. 109 (Tex. Civ. App. 1886), a defendant found guilty of failing to pay an occupation tax attacked the constitutionality of the statute imposing the tax on the ground that it was not included in the subjects contained in the proclamation convening the special session at which it was enacted. The proclamation stated that one of the purposes for the special session was "to reduce the taxes, both ad valorem and occupation, so far as it may be found consistent with the support of an efficient state government." The court found that the proclamation embraced the whole subject of taxation and that the governor's proclamation merely called attention to the subject on which legislation was desired. Thus, the statute imposing a tax was upheld as being authorized by a proclamation that spoke only to reducing taxes.

The chair has been asked the question of whether revenue enhancement bills, such as pari-mutuel wagering, are now within the call submitted by the governor in light of his proclamations.

The chair feels that the subject submitted by the governor is legislation concerning state finance and necessarily includes revenue enhancement measures as well as reduced spending. Because of court decisions such as Baldwin v. State, and legislative precedent, it naturally follows that a measure which enhances revenue deals with the subject of state finance in that the effect is to raise money. The chair respectfully overrules the point of order." (69 H.J. 2nd C.S. 189 (1986)).

VETOED BILLS

EXPLANATORY NOTES

The constitution provides that when the governor vetoes a bill it shall be returned to the house in which it originated and that said house shall "proceed to reconsider it." For some time it was held that when a motion to pass a bill over the veto of the governor failed that no further action could be had, specifically that no motion to reconsider such vote could be made on the theory that when the constitution said "reconsider" that it meant only once. Later practice, however, discarded this theory, Speakers R. E. Morse, Homer Leonard, and Price Daniel holding that the constitutional term "reconsider" did not refer to the parliamentary

motion "to reconsider." The practice now permits one additional vote on passage over the governor's veto if obtained under the route defined in the reconsideration rule, and an additional vote or votes if obtained under a suspension of the rules.

HOUSE PRECEDENTS

1. CAN NOT AMEND A BILL AFTER BEING VETOED. — The house had under consideration a bill vetoed by the governor, the question being, "Shall the bill be passed notwithstanding the objections of the Governor?"

Mr. Nickels offered an amendment.

Mr. Kennedy raised a point of order on consideration of the amendment on the ground that it is not within the province of the house to amend the bill at this time.

Sustained. (32 H.J. Reg. 732 (1911)).

2. A GOOD "CONSTITUTIONAL" POINT OF ORDER CONCERNING A BILL MAY BE SUCCESSFULLY RAISED AT ANY TIME A BILL IS BEFORE THE HOUSE FOR CONSIDERATION. CASE WHERE SUCH A POINT WAS RAISED WHILE A BILL WAS BEFORE THE HOUSE ON MOTION TO PASS OVER VETO OF THE GOVERNOR. — The house was considering H.B. 260 on motion to pass same over the veto of the governor. Mr. Craig raised a point of order on further consideration of the motion on the ground that certain constitutional provisions concerning local bills had not been complied with in the case of H.B. 260. Opponents of this position held that such a point could not successfully be raised at the time because the only question pending was whether or not it should be passed over the veto of the governor.

The speaker, Mr. Daniel, after ascertaining the facts from the author, sustained the point of order, stating that the bill was then just as truly before the house for consideration as at any other previous stage of its passage. (48 H.J. Reg. 887 (1943)).

Rule 9. Joint Resolutions

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RULE 9
Joint Resolutions

Section 1. Amendments to the Texas Constitution — (a) A proposed amendment to the Texas Constitution shall take the form of a joint resolution, which shall be subject to the rules that govern the proceedings on bills, except as provided by this section.

(b) A joint resolution is not subject to the provisions of Rule 8, Section 3, or Rule 11, Section 3.

(c) A joint resolution shall be adopted on any reading after the first if it receives a two-thirds vote of the elected membership of the house. If such a joint resolution receives only a majority vote on second reading, it shall be passed to engrossment, and subsequent proceedings shall be the same as those governing the final passage of bills which have been passed to engrossment. If such a joint resolution does not receive a two-thirds vote of the elected membership of the house on third reading and final passage, it shall fail of adoption.

EXPLANATORY NOTES

1. See Const., Art. 17, Sec. 1.
2. The joint resolution has been used for years by congress and state legislatures as a vehicle for different forms of business. In the Texas Legislature the rules provide that such a resolution should be used as the means of submitting amendments to the state constitution. The above section provides, in effect, that a joint resolution shall take the same course through the two houses as a bill and be like a bill in all respects, except that if it receives, at any reading beyond the first, a two-thirds vote of all members elected to a particular house, then the resolution is passed finally by that house. Current practice is that joint resolutions are not submitted to the governor for signature but are filed directly with the secretary of state. The two-thirds vote requirement in the rules is in keeping with the Texas constitutional requirement that an amendment to the constitution can be proposed only by that vote.
3. The germaneness rule applies to joint resolutions as well as to bills. The rule that prohibits a bill from containing more than one subject and the rule that prohibits a bill from being amended to change its original purpose do not apply to joint resolutions, as both rules are based on constitutional provisions that apply exclusively to bills.
4. Senate amendments to house joint resolutions proposing constitutional amendments must be concurred in by the same two-thirds vote required for their passage, i.e., two-thirds of the elected membership. The same vote is required for the adoption of a conference committee report on a joint resolution.

Section 2. Ratifying or Proposing Amendments to the Constitution of the United States — Ratification by Texas of a proposed amendment to or application to Congress for a convention to amend the Constitution of the United States shall take the form of a joint resolution, which shall be subject to the rules that govern the proceedings on bills, except that it shall be adopted on second reading if it receives a majority vote of the members present and voting,

a quorum being present. If such a joint resolution fails to receive a majority vote, it shall fail of adoption and shall not be considered again unless revived by a motion to reconsider as otherwise provided in the rules.

EXPLANATORY NOTES

Amendments to the federal constitution are considered adopted after submission by the congress and ratification by the required number of states through the action of their legislatures. It has been the custom to present such proposals for ratification in the Texas Legislature through the vehicle of a joint resolution, but since nothing exists to the contrary, such a resolution can be passed by a majority vote of each house, the two-thirds vote requirement referred to in Sec. 1 of this rule, obviously not being applicable. To illustrate, when the 19th Amendment to the Federal Constitution (Suffrage Amendment) was ratified by the Texas Legislature, it received a record vote in the house but only a voice vote in the senate, and was declared duly ratified. The 20th Amendment to the Federal Constitution (Presidential Succession) was adopted by a unanimous vote of each house of the Texas Legislature, the vote being recorded but no reference being made to a "two-thirds vote." Had such been considered significant it would have been appropriately recorded. The same vote requirements apply to resolutions applying to Congress for a convention to amend the federal constitution.

Section 3. Placement of Joint Resolutions on a Calendar — Joint resolutions on committee report shall be referred to the Committee on Calendars for placement on an appropriate calendar. The Committee on Calendars shall maintain a separate calendar for house joint resolutions and a separate calendar for senate joint resolutions. Senate joint resolutions shall be considered on calendar Wednesdays and calendar Thursdays along with senate bills.

Rule 10. House Resolutions and Concurrent Resolutions

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RULE 10

House Resolutions and Concurrent Resolutions

Section 1. Filing — Resolutions shall be introduced by the filing of 13 identical copies with the chief clerk, who shall number and record house resolutions in one series and concurrent resolutions in a separate series.

Section 2. Referral to Committee — (a) After numbering and recording, all resolutions shall be sent to the speaker for referral to the proper committee.

(b) Resolutions proposing the expenditure of money out of the contingent expense fund of the legislature shall be referred to the Committee on House Administration.

(c) All other resolutions shall be referred to the appropriate committee with jurisdiction.

Section 3. Referral to Calendars Committees — All resolutions on committee report, other than privileged resolutions, shall be referred immediately to the appropriate calendars committee for placement on the appropriate calendar.

Section 4. Order of Consideration — Unless privileged, resolutions shall be considered by the house only at the time assigned for their consideration on the calendar, in accordance with the provisions of Rule 6, Section 7.

Section 5. Signing by Governor — Concurrent resolutions shall take the same course as house resolutions, except that they shall be sent to the governor for signing when finally passed by both houses.

EXPLANATORY NOTES

1. Matters of business solely between the two houses are handled by concurrent resolutions; for example, requests for the return of bills for further consideration, corrections, etc., are contained in concurrent resolutions. All concurrent resolutions, except those pertaining to procedural matters between the two houses, must be submitted to the governor for approval.
2. Presiding officers of both houses have repeatedly held that the provisions of concurrent resolutions dealing solely with procedural matters between the two houses actually become effective as soon as they are approved by both houses.
3. Concurrent resolutions do not have to be "put into immediate effect" by receiving one hundred votes on passage. A majority vote is all that is necessary to carry out the provisions of any house or concurrent resolution.

Section 6. Mascot Resolutions — (a) All candidates for the office of mascot shall be named in and elected by a single house resolution.

(b) Only children of house members who are under the age of 12 years shall be eligible for election to the honorary office of mascot. A child once named a mascot shall not be eligible for the honor a second time.

(c) No separate classification or special title shall be given to any mascot, but all shall receive the same title of honorary mascot of the house of representatives.

(d) The speaker shall issue a certificate showing the election of each mascot and deliver it to the parent member of the child.

Pictures of mascots shall appear on the panel picture of the house.

Section 7. Consideration of Resolutions During Called Sessions — The subject matter of house resolutions and concurrent resolutions does not have to be submitted by the governor in a called session before they can be considered.

Section 8. Resolutions Authorizing Technical Corrections — Resolutions authorizing the enrolling clerk of the house or senate to make technical corrections to a measure that has been finally acted upon by both houses of the legislature shall be privileged in nature and need not be referred to committee. Such resolutions shall be eligible for consideration by the house upon introduction in the house or receipt from the senate.

Section 9. Author's Signature on Congratulatory or Memorial Resolution — The enrolled printing of a house congratulatory or memorial resolution shall include a place for the signature of the primary author of the resolution. The chief clerk shall provide the primary author with the opportunity to sign the resolution after the resolution is enrolled. The absence of the primary author's signature does not affect the validity of the resolution as adopted by the house.

HOUSE PRECEDENTS RELATING TO RESOLUTIONS

1. THE LEGISLATURE BY CONCURRENT RESOLUTION CANNOT POSTPONE THE DATE A LAW IS TO BECOME EFFECTIVE. — The speaker had laid before the house a Senate Concurrent Resolution No. 12, relating to postponing the date upon which a certain act passed by the regular session was to become effective.

Mr. Keller raised a point of order on further consideration of the resolution on the ground that the legislature cannot by concurrent resolution change the date a law becomes effective.

The speaker, Mr. Barron, sustained the point of order. (41 H.J. 1 C.S. 601 (1929)).

2. AUTHORITY CANNOT BE GIVEN TO A STATE AGENCY BY CONCURRENT RESOLUTION IF SUCH DOES NOT ALREADY EXIST BY LAW. — The house was considering H.C.R. 68 which required of the Department of Public Safety certain activity not prescribed by law. Mr. Carlton raised a point of order on consideration of the resolution on the ground that delegation of authority not authorized by law cannot be accomplished by a concurrent resolution.

The speaker, Mr. Daniel, sustained the point of order. (48 H.J. Reg. 1018 (1943)).

3. CANNOT AUTHORIZE BY RESOLUTION AN ACT IN VIOLATION OF AN EXISTING STATUTE. — H.C.R. 122, authorizing the Game, Fish and Oyster Department to issue complimentary hunting licenses to out-of-state sportsmen, was before the house.

Mr. Alsup raised a point of order against the resolution on the ground that such authorization would be in violation of existing statute, and that the legislature had no authority to change a statute except by bill.

The speaker, Mr. Calvert, sustained the point of order. (45 H.J. Reg. 2723 (1937)).

4. HELD THAT PERMISSION TO SUE THE STATE COULD BE GRANTED BY CONCURRENT RESOLUTION. — In an opinion rendered Hon. Dewey Young, dated March 18, 1931, Mr. J. A. Stamford, assistant attorney general, stated:

"We have spent considerable time in investigating this question, but have been able to find very few authorities bearing upon the same, but have concluded that it is both legal and constitutional for the consent of the State to be sued to be given by a concurrent resolution properly passed by the Legislature and approved by the Governor."

Chapter 107, Civil Practice and Remedies Code, governs resolutions granting permission to sue the state.

5. APPROPRIATION FROM THE GENERAL REVENUE FUND OF THE STATE CAN NOT BE MADE BY RESOLUTION. — H.C.R. 13, pending before the house, provided an appropriation of $1,000 "out of the General Revenue Fund of the State Treasury" to defray the expenses of a committee, consisting of members of the house and senate and others, to meet with representatives of the State of Oklahoma in regard to certain boundary matters.

Mr. Jones of Wise raised a point of order against the resolution on the ground that the appropriation was in violation of Sec. 6 of Art. 8 of the constitution which requires that an appropriation must be "made by law."

The speaker, Mr. Calvert, sustained the point of order, and the resolution was amended by unanimous consent to provide for the appropriation out of the Contingent Expense Fund of the house and senate. (45 H.J. Reg. 209 (1937)).

6. SINE DIE ADJOURNMENT RESOLUTION MUST FIX A DATE CERTAIN FOR ADJOURNMENT. — The house was considering S.C.R. 64, providing for sine die adjournment on a certain date. An amendment was offered to change the adjournment date to "Twelve days after the departmental appropriation . . . is presented to the Governor." Mr. Isaacks raised a point of order that the amendment was out of order because it would make the adjournment date vague and indefinite. The speaker, Mr. Homer Leonard, sustained the point of order (47 H.J. Reg. 3760 (1941)).

Rule 11. Amendments

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RULE 11
Amendments

Section 1. Acceptable Motions to Amend — When a bill, resolution, motion, or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order. It shall also be in order to offer a further amendment by way of a substitute. Such a substitute may not be amended. If the substitute is adopted, the question shall then be on the amendment as substituted, and under this condition an amendment is not in order.

Section 2. Motions on a Different Subject Offered as Amendments — No motion or proposition on a subject different from the subject under consideration shall be admitted as an amendment or as a substitute for the motion or proposition under debate. "Proposition" as used in this section shall include a bill, resolution, joint resolution, or any other motion which is amendable.

Amendments pertaining to the organization, powers, regulation, and management of the agency, commission, or advisory committee under consideration are germane to bills extending state agencies, commissions, or advisory committees under the provisions of the Texas Sunset Act (Chapter 325, Government Code).

An amendment to a committee substitute laid before the house in lieu of an original bill is germane if each subject of the amendment is a subject that is included in the committee substitute or was included in the original bill.

EXPLANATORY NOTES

The fact that rules of the house provide that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment, and the further fact that the constitution declares no bill shall be so amended in its passage through either house as to change its original purpose, narrows the scope of germaneness to such an extent that often many amendments are excluded which relate to the general subject of the original proposition but which so change the original purpose of the bill or proposition by the elimination of essential parts thereof or by adding new matter on the same subject or by alterations in essential points. This necessarily limits and restricts amendments that are germane to any subject. The fact that there is no protection in the courts against the violation of the constitutional provision which prohibits changing the purposes of bills, makes it imperative that a presiding officer, as well as members, strictly construe the rule and use due precaution in the determination of the germaneness of an amendment.

Under long-standing practice, the speaker applies stricter scrutiny to amendments near the end of a legislative session in order to prevent defeated legislation from being considered again in the form of an amendment.

HOUSE PRECEDENTS

1. SUBSTITUTE AMENDMENTS MUST BE GERMANE TO ORIGINAL AMENDMENTS. — In the 56th Legislature, 2nd Called Session, the speaker, Mr. Carr, ruled that an amendment striking out an entire section of a bill could not be offered as a substitute for a minor amendment to the section. He noted that the amendment striking out the entire section could be offered regardless of the fate of the minor amendment.

2. EXAMPLES OF AMENDMENTS THAT ARE GERMANE. — An amendment to provide for election of comptroller of public accounts and other officers by adding these to a joint resolution to elect governor, lieutenant governor and attorney general at same time and place as members of legislature. (41st Reg.)

An amendment providing the act under consideration shall not affect royalties now being received by the state from river, bayou or lake beds, to a bill validating all patents to certain lands along rivers and giving the owners thereof all royalties. (41st Reg.)

An amendment to prohibit railroads from owning an interest in any motor carrier, to a bill regulating motor carriers transporting property over the highway for hire. (42nd Reg.)

An amendment to have a joint session of the house and the senate to hear evidence from commissioner of agriculture, comptroller and treasurer of the state as to disposition of certain moneys mentioned in the resolution, to a resolution for the purpose of hearing evidence to be presented by commissioner of agriculture and such other evidence to substantiate the charges set out in the resolution. (44th Reg.)

An amendment to place rangers under bond to a bill creating department of public safety to which rangers were transferred from the adjutant general's department. (44th Reg.)

An amendment to provide a literacy test for voters to a joint resolution abolishing poll tax and allowing the legislature to provide for registration of voters. (44th Reg.)

3. EXAMPLES OF AMENDMENTS THAT ARE NOT GERMANE. — An amendment to include control and the regulation of the natural gas industry to a bill making gas pipe lines common carriers. (44th Reg.)

An amendment granting permission to one person to have a cigar stand in capitol to resolution granting permission to another person. (44th Reg.)

An amendment to limit the weight of all trucks on highways by allowing variation of ten per centum of gross weight, to a bill providing schedule of weights to determine the load weight of lumber. (44th Reg.)

An amendment to pay a reward for bank robbers to bill creating bank deposit insurance funds. (43rd, 1st C.S.)

An amendment to place tax on natural gas to bill appropriating money for the centennial. (43rd Reg.)

An amendment repealing the law creating the board of pardons and paroles to a bill moving the board from Austin to Huntsville. (43rd Reg.)

An amendment to change the license fee on motor cars and trucks to a bill requiring a tax receipt for ad valorem taxes before registration. (43rd Reg.)

An amendment relative to teachers' certificates to a bill relating to tuition charges of state schools. (43rd Reg.)

An amendment to add light and power companies to a bill relating to ready-to-serve charges of natural gas companies. (43rd Reg.)

An amendment taxing cigars to a bill placing a tax on natural gas and regulating the industry. (43rd Reg.)

An amendment to pay expenses of eradication of ticks to a bill to pay claims of losses in eradication of pink bollworm. (43rd Reg.)

An amendment creating a road bond and indebtedness assumptions plan to a bill relating to tax on gasoline and collection thereof. (42nd Reg.)

An amendment to provide an appropriation for relief to DeSoto school district to a bill making appropriation to the Frost independent school district. (42nd Reg.)

An amendment making the act apply to all the state to a bill making a closed season on quail in Howard County. (42nd Reg.)

An amendment making it a misdemeanor to make false reports relative to milk or false test of milk or butterfats, and providing an appropriation to carry into effect the provision of the act, to a deficiency appropriation bill. (42nd Reg.)

An amendment placing a gross production tax on the production of oil to bill providing for the county tax collector to collect a tax or license fee from cigarette dealers. (42nd, C.S.)

An amendment not to permit a truck to have more than twenty-five gallons of gasoline for purposes of operation to a bill licensing chauffeurs of trucks. (42nd, 3rd C.S.)

An amendment striking out commissioner of agriculture and substituting therefor authorities at A. & M. College, to a bill making ginners obtain license from commissioner of agriculture. (41st Reg.)

An amendment inserting drugs, groceries, and dry goods industries to a bill making the ice industry a public business. (41st Reg.)

4. ANOTHER EXAMPLE OF AN AMENDMENT THAT IS NOT GERMANE. — The house was considering House Bill No. 341, "An Act making appropriation to be used for the erection of a monument in the City of Crockett, Houston County, in memory of David Crockett."

Mr. Cox of Lamar offered the following amendment: Amend House Bill No. 341, by striking out the words "Crockett, Houston County," and add in lieu thereof, "on the Capitol grounds at Austin, Texas."

Mr. Sanford raised the point of order on further consideration of the amendment on the ground that it was not germane to the purposes of the bill.

The speaker, Mr. Satterwhite, sustained the point of order. (39 H.J. 1 C.S. 1169 (1926)).

5. ANOTHER EXAMPLE OF AN AMENDMENT THAT IS NOT GERMANE. — The house was considering H.B. 267, an act banning liquor advertisements. Mr. Harris of Dallas offered an amendment seeking to include "tobaccos" under the terms of the bill.

Mr. Harris of Dickens raised a point of order that the amendment was not germane to the purpose of the bill.

The speaker, Mr. Calvert, sustained the point of order. (45 H.J. Reg. 683 (1937)).

6. AN AMENDMENT AMENDING IN MAJOR PARTICULARS AN EXISTING LAW IS GERMANE TO A BILL SEEKING TO REPEAL THE LAW. — Under a congressional precedent of many years standing, followed in the house, if an amendatory bill vitally affects "a whole law so as to bring the entire act under consideration," an amendment providing for repeal of the law is germane.

Conversely, in the 56th Legislature, Regular Session, the speaker, Mr. Carr, held that an amendment to a bill which vitally affected a whole law, i.e., bringing a major portion of the entire act under consideration in the amendment, was germane to a bill proposing the repeal of the law.

7. AN AMENDMENT ADDING ONE OR MORE DISTINCT PROPOSITIONS TO A BILL CONTAINING ONE DISTINCT PROPOSITION IS NOT GERMANE EVEN IF THE PROPOSITIONS TO BE ADDED ARE OF THE SAME CLASS AS THE ORIGINAL PROPOSITION. — The house was considering H.B. 277, "An Act providing relief for the Old Glory Rural High Common School District No. 4 of Stonewall County . . . ." by making an appropriation to replace buildings, etc., destroyed by fire. A committee amendment was pending which proposed to add to the bill appropriations for several other destroyed buildings in other counties of the state. Many amendments were adopted to the committee amendment which added still more appropriations for similar purposes.

Mr. Knetsch raised a point of order against the committee amendment as amended on the ground that it sought to change the purpose of the bill by way of adding other distinct propositions.

The speaker, Mr. Calvert, sustained the point of order. (45 H.J. Reg. 617 (1937)).

8. HOUSE MAY BY AMENDMENTS ATTACH CONDITIONS TO AN APPROPRIATION. — The house was considering the general appropriation bill when Mr. Terrell of Travis offered an amendment to the Treasury Department as follows:

"The appropriation herein made for salary for clerks shall not be paid to more than two clerks who may be related to the State Treasurer in the third degree of consanguinity or affinity."

Mr. Bertram raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

The speaker, ruling on the point of order raised by Mr. Bertram, said:

"The Chair thinks that this amendment is a condition attached to an appropriation, upon failure to comply with which the appropriation will cease to be effective. If this view is correct, the amendment is germane and does not amount to legislation on a different subject from that under consideration, more particularly so since the clerks whose qualifications are in a measure prescribed by this amendment are, it seems not statutory officers, but merely employees filling places created by the biennial appropriation bill." (29 H.J. 1 C.S. 94 (1905)).

9. THE LEGISLATURE CANNOT AMEND EXISTING STATUTE BY AN AMENDMENT TO AN APPROPRIATION BILL. — Mr. Beck offered an amendment to House Bill No. 167 so as to combine the Board of Mineral Development with the Board of Water Engineers.

Mr. Van Zandt raised a point of order on further consideration of the amendment by Mr. Beck, on the ground that the amendment attempts to amend a statute through an appropriation bill.

The speaker, Mr. Stevenson, sustained the point of order. (43 H.J. Reg. 1090 (1933)).

10. MATTER INCIDENT TO THE MAIN PURPOSE OF A BILL IS GERMANE, AND ITS ADDITION DOES NOT CONSTITUTE A SECOND "SUBJECT" IN THE MEANING OF THE CONSTITUTION. — The house was considering H.B. 48, providing for old age assistance. Mr. Farmer offered a substitute bill in the form of an amendment.

Mr. Gibson raised a point of order against consideration of the amendment on the ground that it was not germane to the original bill since the amendment sought to levy a tax on certain natural resources for payment of the old age assistance, whereas the original bill did not seek to levy a tax; and on the further ground that if the amendment were adopted the bill would contain two subjects in violation of the constitution, namely, old age assistance and taxation.

The speaker, Mr. Calvert, overruled the point of order, stating that any matter incidental to carrying out the provisions of an act was germane; and also, since the tax feature was incidental to the main proposition, in his opinion the bill did not contain two distinct subjects within the meaning of the constitution. (45 H.J. Reg. 458 (1937)).

11. AMENDMENTS MUST BE GERMANE, AND WHILE THE HOUSE RULE RELATING TO GERMANENESS CAN BE SUSPENDED, YET THE CONSTITUTIONAL SECTION CONTAINING THE SAME REQUIREMENT CAN NOT BE SUSPENDED. — The house was considering H.B. 72, and Mr. Alexander offered the committee amendment to the bill. Mr. Mays raised the point of order that the amendment was not germane to the bill.

The speaker, Mr. Calvert, sustained the point of order.

On motion by Mr. Thornton the house rule relating to germaneness was suspended for the purpose of admitting the amendment. Whereupon Mr. Knetsch raised a point of order against further consideration of the committee amendment on the ground that while it was proper to suspend a house rule, Sec. 30 of Art. 3 of the constitution, which requires germaneness, could not be suspended.

The speaker sustained the point of order. (45 H.J. Reg. 767 (1937)).

12. GENERAL STATEMENT AS TO GERMANENESS. — The house was considering S.B. 305 and Mr. Pearcy offered an amendment to add emotionally disturbed children to the statutory enumeration of exceptional children. The bill proposed to change the age classification to the existing enumeration. In sustaining the point of order that the amendment was not germane, the speaker ruled, (in part):

"In general, the only purpose of an objection to germaneness is that the proposed amendment is a motion upon a subject different from that under consideration. Its purpose is to prevent hastily and ill-considered legislation, to prevent matters from being presented for the consideration of the body which might not reasonably be anticipated.

"It is well settled that an amendment to an existing law and relating to the terms of the law rather than to the bill are not germane. Where an amendment does not vitally affect the entire present law, amendments to that same law have been held not necessarily germane.

"In other words the rule of germaneness applies to the relation between the proposed amendment and the pending bill; and not to the relation between such amendment and existing law of which the pending bill is amendatory." (58 H.J. Reg. 1733 (1963)).

An amendment (1) adding a new tax, (2) raising or lowering an existing tax, or (3) eliminating a tax altogether is basically germane to an "omnibus tax bill"; provided, however: (a) the proposed tax is constitutional, (b) the tax feature is clearly paramount, and (c) the proposed tax does not involve an illegal act. The two precedents following illustrate two of these limitations.

13. AN AMENDMENT RULED NOT GERMANE TO A TAX BILL BECAUSE THE TAX INVOLVED AN ILLEGAL ACT. — In the 56th Legislature, 2nd Called Session, the speaker, Mr. Carr, ruled out of order as not germane an amendment to an omnibus tax bill which would have levied a tax on the sale in dry territory of liquor illegally distilled therein. He maintained that to levy such a tax would give semblance of legality to that which by law is specifically declared illegal.

14. EXAMPLE OF WHERE THE MAJOR PURPOSE OF AN AMENDMENT DETERMINED ITS GERMANENESS; AMENDMENT HELD NOT GERMANE. — The house was considering H.B. 8, an omnibus tax bill, when Mr. Dwyer and Mr. Bean offered an amendment which would permit the sale of liquor by the drink and levy certain taxes on the sale thereof. Mr. Hanna and Mr. Blankenship raised the point of order that the amendment was not germane on the ground that its major purpose was to legalize the sale of liquor by the drink in violation of existing law, the tax feature being of secondary importance.

The speaker, Mr. Homer Leonard, sustained the point of order. (47 H.J. Reg. 1123 (1941)).

15. ANOTHER EXAMPLE OF WHERE THE MAJOR PURPOSE OF AN AMENDMENT DETERMINED ITS GERMANENESS; AMENDMENT HELD NOT GERMANE. — The house was considering H.B. 723, a bill that required informed consent before the performance of a hysterectomy, when Ms. Wohlgemuth offered an amendment that would have added a requirement for informed consent before the performance of any medical procedure that leads to a hysterectomy. Mr. Berlanga raised the point of order that the amendment was not germane on the grounds that no provision of the bill as reported from committee addressed a medical procedure other than a hysterectomy and that the clear effect of the amendment would be to expand the bill to cover medical procedures other than hysterectomies. Mr. Berlanga argued that, although the additional covered medical procedures would be limited to those procedures that lead to a hysterectomy, the scope and number of procedures meeting that standard were unknown and were clearly broader than the narrower concept of the hysterectomy procedure itself.

The speaker, Mr. Laney, sustained the point of order. (75 H.J. Reg. 1147 (1997)).

16. BODY OF A BILL, NOT ITS CAPTION, MUST BE USED AS THE BASIS OF DETERMINING GERMANENESS OF AN AMENDMENT. — An amendment was pending to H.B. 100. Mr. Love raised a point of order on its consideration on the ground that "it does not conform to the caption of the bill."

The speaker, Mr. Daniel, overruled the point of order, explaining that the body of a bill rather than its caption must be examined to determine germaneness. He pointed out further that the rules allow amending captions to conform to bodies of bills after they have been decided upon, and any amendment that comes under the germaneness rules

may be considered regardless of whether or not the original caption properly reflected the content of the bill. (48 H.J. Reg. 699 (1943)).

17. SEVERAL TYPES OF AMENDMENTS HELD NOT GERMANE, PARTICULARLY RELATING TO CHANGING LOCAL BILLS INTO GENERAL BILLS AND VICE VERSA. — At various times during the 50th Legislature the speaker, Mr. Reed, and in the 51st Legislature, the speaker, Mr. Manford, held the following types of amendments out of order as being not germane:

a. Making a general bill out of a local bill.

b. Exempting a single county or group of counties from the terms of a general bill by statements of exemption.

c. Making a local bill out of a general bill by specifying arbitrarily that it be not applicable to any except a single county or group of counties.

d. Restricting a general bill by some arbitrary and illogical population specification such as "not applicable to cities of 3,000 or less."

18. EXAMPLE OF SENATE AMENDMENT NOT GERMANE TO HOUSE VERSION OF BILL. — H.B. 2 with senate amendments, relating to the allocation of certain revenue from franchise taxes, motor vehicle sales and use taxes, and taxes on cigarettes and other tobacco products to provide property tax relief and public education, was called up for consideration. The speaker, Mr. Craddick, sustained a point of order that the senate amendments were not germane to H.B. 2 as it left the house. As approved by the house, H.B. 2 required certain tax revenue to be dedicated to the reduction of school property tax rates. The senate amendment changed the sole dedication of that tax revenue to property tax relief to allow up to one-third of those funds to be used to increase school funding at the expense of providing additional property tax relief. This senate amendment was not germane to the house engrossed version and was contrary to the stated purpose of the bill. (79 H.J. 3 C.S. 234 (2006)).

CONGRESSIONAL PRECEDENTS ON GERMANE AMENDMENTS

Whether or not an amendment be germane should be judged from the provisions of its text rather than from the purposes which circumstances may suggest (5 H.P. 5783, 5803). The rule that amendments should be germane applies to amendments reported by committees (5 H.P. 5806). The rule of germaneness applies to the relation between a proposed amendment and the pending bill to which offered and not to the relation between such amendment and an existing law of which the pending bill is amendatory (8 C.P. 2909). The rule providing that amendments must be germane has been construed as requiring that the fundamental purpose of an amendment be germane to the fundamental purpose of the bill to which it is offered (8 C.P. 2911). The burden of proof of the germaneness of an amendment rests upon its proponents (8 C.P. 2995). Under the later practice an amendment should be germane to the particular paragraph or section to which it is offered (5 H.P. 5811-5820), and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered (5 H.P. 5822). To a bill amending a general law on a specific point an amendment relating

to the terms of the law rather than to those of the bill was offered and ruled not to be germane. (Speaker Reed, 5 H.P. 5808; also ruled by Speaker Cannon, Apr. 1, 1910, 61st Cong., 1st Sess., p. 4144; Speaker Clark, Dec. 5, 1912, 62nd Cong. 3rd Sess.) So to a legislative section in a general appropriation bill amending one section of the criminal code, a provision amending the criminal code in other particulars was held not germane. (Speaker Clark, Jan. 16, 1917, 64th Cong., 2nd Sess., p. 1487.) A bill amending several sections of an act does not necessarily bring the entire act under consideration so as to permit an amendment to any portion of the act sought to be amended by the bill. (Chairman Anderson, June 10, 1921, p. 2415; Chairman Stafford, Dec. 10, 1921, p. 200.) To a bill amendatory of existing law in one particular a proposition to amend the law in another particular is not germane. (8 C.P. 2937.) An amendment to a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of the law rather than to the terms of the bill was held not to be germane (8 C.P. 2916). An amendment germane to the bill as a whole, but hardly germane to any one section, may be offered at an appropriate place with notice of motions to strike out the following sections which it would supersede (5 H.P. 5823).

In determining whether or not an amendment be germane, certain principles are established:

(a) One individual proposition may not be amended by another individual proposition even though the two belong to the same class. Thus, the following are not germane: To a bill proposing the admission of one territory into the union, an amendment for admission of another territory (5 H.P. 5529); to a bill for the relief of one individual, an amendment proposing similar relief for another (5 H.P. 5826-5829); to a provision for extermination of the cotton bollweevil, an amendment including the gypsy moth (5 H.P. 5832); to a provision for a clerk for one committee, an amendment for a clerk to another committee (5 H.P. 5833); to a bill prohibiting transportation of messages relating to dealing in cotton futures, an amendment adding wheat, corn, etc. (Speaker Clark, July 16, 1912, 62nd Cong., 2nd Sess., p. 9142.) To a bill prohibiting importation of goods "made in whole or in part by convict, pauper, or detained labor, or made in whole or in part from materials which have been made in whole or in part or in any manner manipulated by convict or prison labor," an amendment prohibiting importation of goods made by child labor was held not germane on the ground that labor described in bill constituted a single class of labor. (Speaker Clark, Mar. 25, 1914, p. 5481, 2nd Sess., 63rd Cong.)

(b) A specific subject may not be amended by a provision general in nature, even when of the class of the specific subject (5 H.P. 5843-5846). Thus, the following are not germane: To a bill for the admission of one territory into the union, an amendment providing for the admission of several other territories (5 H.P. 5837); to a bill relating to all corporations engaged in interstate commerce, an amendment relating to all corporations (5 H.P. 5842); to a bill modifying an existing law as to one specific particular, an amendment relating to the terms of the law rather than those of the bill (5 H.P. 5806-5808); to a bill merely extending and re-enacting an existing law, an amendment seeking to further amend the law (5 H.P. 5806) (contra, Chairman Burton, Oct. 18, 1921, p. 6465, and Chairman Graham of Illinois, Apr. 28, 1924, p. 7419, 68th Cong., 1st

Sess.); to a bill amending the war-time prohibition act in one particular, an amendment repealing that act. (Chairman Good, July 14, 1919, p. 2555.)

(c) A general subject may be amended by specific propositions of the same class. Thus, the following have been held to be germane: To a bill admitting several territories into the union, an amendment adding another territory (5 H.P. 5838); to a bill providing for the construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities (5 H.P. 5840); to a resolution embodying two distinct phases of international relationship, an amendment embodying a third (5 H.P. 5839). But to a resolution authorizing a class of employees in the service of the house, an amendment providing for the employment of a specified individual was held not to be germane. (5 H.P. 5848, 5849).

(d) Two subjects are not necessarily germane because they are related. Thus the following have been held not to be germane: To a proposition relating to the terms of senators, an amendment changing the manner of their election (5 H.P. 5882); to a bill relating to commerce between the states, an amendment relating to commerce within the several states (5 H.P. 5841); to a proposition to relieve destitute citizens of the United States in Cuba, a proposition declaring a state of war in Cuba and proclaiming neutrality (5 H.P. 5897); to a proposition for the appointment of a select committee to investigate a certain subject, an amendment proposing an inquiry of the executive on that subject (5 H.P. 5891); to a bill granting a right of way to a railroad, an amendment providing for the purchase of the railroad by the government (5 H.P. 5887); to a provision for the erection of a building for a mint, an amendment to change the coinage laws (5 H.P. 5884); to a resolution proposing expulsion, an amendment proposing censure (Oct. 27, 1921, 67th Cong., 1st Sess.); to a general tariff bill, an amendment creating a tariff board (Chairman Garrett of Tennessee, May 6, 1913, 63rd Cong., 1st Sess., p. 1234; also Speaker Clark, May 8, 1913, 63rd Cong., 1st Sess., p. 1381; for ruling in full, see Sec. 947); to a proposition to sell two battleships and build a new battleship with the proceeds, a proposition to devote the proceeds to building wagon roads. (Speaker Clark, June 23, 1914, p. 10962, 63rd Cong., 2nd Sess.; see Sec. 952.) To a law providing for the insurance of soldiers upon the payment of premiums, a proposition for the continuance of such insurance for two years without the payment of premiums was held not germane. (Chairman Tilson, Sept. 13, 1919; see Sec. 915.) To a proposition appropriating money for a general increase in the salaries of employees for 1918, a provision making the same increase available for the remainder of 1917 was held not germane (Chairman Harrison of Mississippi, Dec. 19, 1916, 64th Cong., 2nd Sess., p. 559), as was also a proposition to establish a minimum wage among the employees affected by the bill (Chairman Harrison, Dec. 19, 1916, p. 571). To a bill amending a general law in several particulars, an amendment providing for the repeal of the whole law was held germane (5 H.P. 5824), but the bill amending the law must so vitally affect the whole law as to bring the entire act under consideration before the chair will hold an amendment repealing the law or amending any section of the law germane to the bill. (Speaker Gillett, June 19, 1919, see Sec. 950; Chairman Madden, Apr. 2, 1924, p. 5437, 68th Cong., 1st Sess.)

(e) An amendment which is germane, not being "on a subject different from that under consideration," belongs to a class illustrated by the following: To a bill providing for an interoceanic canal by one route, an amendment providing for a different route (5 H.P. 5909); to a bill providing for the reorganization of the army, an amendment providing for the encouragement of marksmanship (5 H.P. 5910); to a proposition to create a board of inquiry, an amendment specifying when it shall report (5 H.P. 5915); to a bill relating to "oleomargarine and other imitation dairy products," an amendment on the subject of "renovated butter" (5 H.P. 5919); to a resolution rescinding an order for final adjournment, an amendment fixing a new date therefor (5 H.P. 5920).

Section 3. Amending a Bill to Change Its Original Purpose — No bill shall be amended in its passage through either house so as to change its original purpose.

EXPLANATORY NOTES

See Const., Sec. 30, Art. 3.

HOUSE PRECEDENTS

1. EXAMPLE OF AN AMENDMENT NOT GERMANE BECAUSE IT WAS EXACTLY OPPOSITE TO THE PURPOSE OF THE BILL UNDER CONSIDERATION. — The house was considering H.B. 189, and Mr. Aynesworth offered an amendment. Mr. Young raised the point of order on further consideration of the amendment on the ground that it sought to permit exactly what the bill sought to prohibit, thus changing the original purpose of the bill.

The speaker, Mr. Senterfitt, sustained the point of order. (52 H.J. Reg. 519 (1951)).

This ruling agrees with others in the past. Often attempts have been made to reverse completely the purposes of bills by amendment, sometimes the changing or addition of single words so as to "permit" rather than "prohibit." These are obviously violations of the constitution. In the proceedings above cited the opponents of the bill could have rejected it by any one of several parliamentary routes had enough votes been available.

2. EXAMPLE OF WHERE AN AMENDMENT, THOUGH ON THE SAME SUBJECT AS THE BILL, WOULD HAVE CHANGED THE ORIGINAL PURPOSE OF THE BILL. — The house was considering S.B. 1454, a bill that was the general validation act for municipal actions that had occurred since the 74th Legislature, when Mr. Crabb offered an amendment that would have established a process by which certain municipal acts could be invalidated by a local vote. Ms. Danburg raised the point of order that the amendment changed the original purpose of the bill because the purpose of the amendment, to provide for the invalidation of municipal actions, was exactly the opposite of the purpose of the bill, to validate municipal actions.

The speaker, Mr. Laney, sustained the point of order. (75 H.J. Reg. 3773 (1997)).

Section 4. Amendments to Bills and Resolutions on Local, Consent, and Resolutions Calendars — Amendments to a bill or resolution shall not be in order during its consideration on a local, consent, and resolutions calendar set by the Committee on Local and Consent Calendars, unless the amendments have first been submitted to and approved by the Committee on Local and Consent Calendars, which shall be noted thereon by the chair of the Committee on Local and Consent Calendars prior to the offering of the amendments.

Section 5. Amendments on Third Reading — When a bill has been taken up on its third reading, amendments shall be in order, but shall require a two-thirds vote of the members present for their adoption. A bill on third reading may be recommitted to a committee and later reported to the house with amendments, in which case the bill shall again take the course of a bill at its second reading.

Section 6. Copies of an Amendment — (a) Five copies of each amendment shall be filed with the speaker. When the amendment is read, two copies shall go to the chief clerk, one copy to the journal clerk, one copy to the reading clerk, and one copy to the speaker. No amendment offered from the floor shall be in order unless the sponsoring member has complied with the provisions of this section with respect to copies of the amendment. The chief clerk shall retain one copy of each amendment filed with the speaker under this section whether or not the amendment was offered by the filing member.

(b) Prior to the time that an amendment is offered, if the amendment exceeds one page in length, the sponsoring member must provide to the chief clerk a minimum of 15 copies to be available for distribution to those members requesting copies of the amendment.

(c) If the amendment is only one page in length or less, the sponsoring member must provide one additional copy of the amendment to the chief clerk, who shall immediately proceed to have additional copies made and available for those members requesting copies of the amendment.

(d) The provisions of this section with respect to extra copies shall not apply to committee amendments or to amendments which do nothing more than delete material from the bill or resolution.

(e) The speaker shall not recognize a member to offer an original amendment that exceeds one page in length and that is in the form of a complete substitute for the bill or resolution laid before the house, or in the opinion of the speaker is a substantial substitute, unless 25 copies of the amendment have been provided to the chief clerk and were available in the chief clerk's office at least 12 hours prior to the time the calendar on which the bill or resolution to be amended is eligible for consideration.

(f) An amendment may be typed, hand-printed, or handwritten, but must be legible in order to be offered.

(g) The speaker shall not recognize a member to offer an original amendment to a bill extending an agency, commission, or advisory committee under the Texas Sunset Act unless 25 copies of the amendment have been provided to the chief clerk and were available in the chief clerk's office at least

12 hours prior to the time the calendar on which the bill or resolution to be amended is eligible for consideration.

(h) The Committee on House Administration shall ensure that:

(1) the floor amendment system through which members of the house may view an electronic image of current or past amendments, or the system's successor in function, is available to the public on the Internet; and

(2) members of the public using the system available on the Internet may view the same information that members may view at the same time that members may view the information.

EXPLANATORY NOTES

Individual committee amendments must be offered on the floor of the house before they can be considered.

Section 7. Order of Offering Motions to Amend — Classes of motions to amend shall be offered in the following order:

(1) motions to amend by striking out the enacting clause of a bill (or the resolving clause of a resolution), which amendment cannot be amended or substituted;

(2) motions to amend an original bill, resolution, motion, or proposition (other than substitute bills as provided for in Subdivision (3) below), which shall have precedence as follows:

(A) original amendment;

(B) amendment to the amendment;

(C) substitute for the amendment to the amendment.

Recognition for the offering of original amendments shall be as follows: first, the main author; second, the member or members offering the committee amendment; and third, members offering other amendments from the floor;

(3) motions to amend an original bill by striking out all after the enacting clause (substitute bills), which substitute bills shall be subject to amendment as follows:

(A) amendment to the substitute bill;

(B) substitute for the amendment to the substitute bill.

Recognition for offering such substitute bills shall be as follows: first, the main author of the original bill, if the member has not sought to perfect the bill by amendments as provided for in Subdivision (2) above; second, the member or members offering the committee amendment; and, third, members offering amendments from the floor.

It shall be in order under the procedure described in this subdivision to have as many as four complete measures pending before the house at one time; that is, an original bill, an amendment striking out all after the enacting clause of the bill and inserting a new bill body, an amendment to the amendment striking out all after the enacting clause of the bill and inserting a new bill body, and a substitute for this amendment to the amendment to the original bill which is also a new bill body. These "substitute bills" shall be voted on in the reverse order of their offering;

(4) motions to amend the caption of a bill or joint resolution, which may also be offered in accordance with Section 9(a) of this rule.

EXPLANATORY NOTES

1. Usually, the author of a bill offers the individual committee amendments; but he is free, under the above provision, to offer any he pleases. Individual committee amendments can be offered as such, or as substitutes, by others if the author does not choose to offer them.
2. When a substitute is adopted for an amendment to an amendment, the parliamentary right of authorship moves to the author of the substitute, i.e., he can close the debate directly, or under a motion to table or under the previous question.
3. See Rule 7, Secs. 12, 23, and 25.
4. The proper way to substitute a new bill from the floor is to offer two amendments, one striking out all after the enacting clause and inserting a new body, and the other striking out all before the enacting clause and inserting a new caption, if needed. Under current house practice, an amendment is offered to strike out all after the enacting clause and insert a new body. Then, upon passage of the bill, the appropriate enrolling clerk is empowered to amend the caption to conform to the body of the bill. See explanatory notes following Sec. 9 of this rule.

Section 8. Strike Outs and Insertions — (a) A motion to strike out and to insert new matter in lieu of that to be stricken out shall be regarded as a substitute and shall be indivisible.

EXPLANATORY NOTES

1. The above is taken from a rule of congress which continues, "but a motion to strike out being lost shall neither preclude amendments nor motion to strike out and insert."
2. An amendment to strike out and insert is an acceptable substitute for an amendment to strike out.

(b) Matter inserted or stricken out of an original bill by way of amendment may not be taken out or reinserted at a later time on the same reading except under the following conditions:

(1) reconsideration of the inserting or deleting amendment;

(2) adoption of a "substitute bill" amendment;

(3) adoption of an amendment for a whole paragraph, section or subdivision of a bill which so materially changes the original text that the portion inserted or deleted is in fact of minor importance.

EXPLANATORY NOTES

"Matter inserted," as used in the above subsection, means any matter inserted in a bill by way of amendment. Such matter would, of course, be discarded in case a new bill, in amendment form, is adopted.

HOUSE PRECEDENTS

AN AMENDMENT TO STRIKE OUT ONLY MATTER PREVIOUSLY INSERTED IN A BILL AT THE SAME READING IS NOT IN ORDER UNLESS RECONSIDERATION IS ORDERED. — Mr. Bolin offered the following amendment:

"Amend the bill as amended by striking out the word 'lawyer' wherever it appears in the bill."

Mr. Hancock raised a point of order for the reason that the house had just inserted such amendment in the bill and had tabled a motion to reconsider the same.

The point of order was sustained. (28 H.J. Reg. 175 (1903)).

Section 9. Amending Captions — (a) An amendment to the caption of a bill or resolution shall not be in order until all other proposed amendments have been acted on and the house is ready to vote on the passage of the measure, and it shall then be decided without debate.

(b) If the previous question has been ordered on a bill or joint resolution at any reading, an amendment to the caption of that bill or joint resolution may be offered and voted on immediately preceding the final vote on the bill or joint resolution.

EXPLANATORY NOTES

1. Rule 2, Sec. 1(a)(10), empowers the chief clerk to amend captions to conform to bill bodies. This, of course, applies only to house bills. Also, that rule renders the above section of little value. However, the rule would not preclude the offering of caption amendments on the floor if such was desired.

2. See Rule 7, Sec. 23.

Section 10. Motion to Limit Amendments — (a) A motion to limit amendments shall be admitted only when seconded by 25 members. The motion may take either of two forms:

(1) to limit amendments to those pending before the house; or

(2) to limit amendments to those pending on the speaker's desk.

(b) The motion shall be put by the chair in this manner: "The motion has been seconded. Three minutes pro and con debate will be allowed on the motion to limit amendments." As soon as the debate has ended, the chair shall continue: "As many as are in favor of limiting amendments on (here state on which question or questions) will say 'Aye,'" and then "As many as are opposed say 'Nay.'" As in all other propositions, a motion to limit amendments shall be decided by a record vote if demanded by any member. If ordered by a majority of the members voting, a quorum being present, the motion shall have the effect of confining further debate and consideration to those amendments included within the motion, and thereafter the chair will accept no more amendments to the proposition to which the motion is applied.

(c) The motion to limit amendments, if adopted, shall not in any way cut off or limit debate or other parliamentary maneuvers on the pending proposition or propositions or amendment or amendments included within the motion. The sole function of the motion is to prevent the chair from accepting further

amendments to the proposition to which the motion is applied.

(d) Except as otherwise provided, the motion to limit amendments shall have no effect on the parliamentary situation to which the motion is applied, and the matter to which the motion is applied shall continue to be considered by the house in all other respects as though the motion had not been made.

(e) The amendments that are included within the motion to limit amendments shall each be subject to amendment, if otherwise permitted under the rules.

Section 11. Motion to Table a Motion to Limit Amendments — The motion to limit amendments is not subject to a motion to table.

Section 12. Order of Voting on Amendments — When an amendment is offered, followed by an amendment to that amendment, and then a substitute for the amendment to the amendment, these questions shall be voted on in the reverse order of their offering.

Section 13. Certification of Adoption of Amendments — When an amendment is adopted, such action shall be certified by the chief clerk on the amendment, and the official copy of the amendment shall then be securely attached to the bill or resolution which it amends.

ADDITIONAL NOTES ON AMENDMENTS

HOUSE PRECEDENTS

1. AMENDMENTS SHOULD BE CLEAR IN DIRECTIONS AND MEANING. — The house was considering a house resolution, and the following amendment was offered: "Amend the resolution by eliminating the condemnation of the building just erected at Tyler from this resolution."

Mr. Johnson of Dimmit raised a point of order on further consideration of the amendment on the ground that it was indefinite.

The speaker, Mr. Barron, sustained the point of order. (41 H.J. 4 C.S. 52 (1929)).

This type of amendment is encountered frequently. Amendments should be drawn carefully and made definite. An amendment accurately written cannot be questioned as to meaning. It is often difficult for clerks to determine the meaning of amendments, and frequently the time of the house has to be taken to correct some vaguely written amendment. Sometimes a whole law has to be re-enacted to correct some part made indefinite or meaningless by a poorly drawn amendment.

2. AN AMENDMENT LOST ON A SECOND READING OF A BILL IS IN ORDER ON A THIRD READING. — An amendment which had been voted down on the second reading of a bill was offered while the bill was on third reading.

Mr. O'Quinn raised a point of order on consideration of the amendment, stating that it should not be entertained, for the reason that the same proposition had been submitted, voted on and lost on the second reading of the bill.

The chair overruled the point of order, stating that as this is a different stage in the progress of the bill, the amendment was in order. (28 H.J. Reg. 212 (1903)).

3. AN AMENDMENT RULED OUT OF ORDER AT A CERTAIN STAGE OF THE PROCEEDINGS MIGHT BE IN ORDER AT ANOTHER TIME. — Mr. Jennings' substitute was not germane to Mr. Ray's amendment to the bank bill, but was germane to the original bill.

Mr. Ray raised a point of order on consideration of the amendment on the ground that the amendment was not in order, for the reason that the subject matter thereof had already been before the house one time in the form of an amendment, and killed by the ruling of the chair.

Overruled. (31 H.J. Reg. 555 (1909)).

4. IF AN AMENDMENT IS LOST OR TABLED, ANOTHER ONE OF THE SAME IMPORT IS NOT IN ORDER ON THE SAME READING OR STAGE OF THE BILL. — Mr. Shropshire offered the following amendment to an amendment:

"Amend by inserting after the word 'service,' in line 30, page 1, the following: 'Or issue to any person other than any employee of said railroad any free pass or permit to ride over said railroad.' Strike out all of Section 2, page 2."

Mr. Wooten raised the point of order that the amendment was not in order, for the reason that a similar amendment had been tabled.

Sustained. (26 H.J. Reg. 1193 (1899)).

5. THE CHAIR DOES NOT RULE ON THE EFFECT OR CONSISTENCY OF AMENDMENTS. — The house was considering H.J.R. 10 when Mr. Jones of Wise offered an amendment.

Mr. McKee raised a point of order against consideration of the amendment on the ground that it was in direct conflict with an amendment previously adopted.

The speaker, Mr. Calvert, overruled the point of order, stating that it was not the duty of the chair to construe the effect or determine the consistency of amendments. (45 H.J. Reg. 1899 (1937)).

6. CASE WHERE AN AMENDMENT AND ACTION THEREON WAS RULED OUT BECAUSE THE AMENDMENT HAD BEEN CHANGED AFTER BEING READ TO THE HOUSE AND WITHOUT ITS KNOWLEDGE. — The house was considering H.B. 136. An amendment was offered, was read to the house, and then adopted. Mr. Westbrook then raised the point of order that the words "and snuff" were added to the amendment by its author after it was read to the house and without its knowledge and that such action was sufficient reason for the speaker to declare the amendment and the action of the house thereon null and void.

The speaker, Mr. Daniel, sustained the point of order, stating that the house could not be held to action taken on an amendment which had been changed without its knowledge. (48 H.J. Reg. 1024 (1943)).

CONGRESSIONAL PRECEDENTS ON AMENDMENTS

A proposed amendment may not be accepted by the member in charge of the pending measure, but can be agreed to only by the house (5 H.P. 5756, 5757). It is not in order to offer more than one motion to amend at a time (5 H.P. 5755). A motion to strike out certain words being disagreed to, it is in order to strike out a portion of those words (5 H.P. 5769). To a motion to insert words in a bill a motion to strike out certain words of the bill may not be offered as a substitute (5 H.P.

5790). If a portion of a proposed amendment be out of order, the whole of it must be ruled out (5 H.P. 5784). When it is proposed to amend by inserting a paragraph, it should be perfected by amendment before the question is put on inserting (5 H.P. 5758). A negative vote on a motion to strike out and insert does not prevent the offering of another similar motion or a simple motion to strike out (5 H.P. 5758). It is in order to insert by way of amendment a paragraph similar (if not actually identical) to one already stricken out by amendment (5 H.P. 5760). After a vote to insert a new section in a bill, it is too late to perfect the section by amendment (5 H.P. 5761, 5762). Words inserted by amendment may not afterwards be changed, except that portion of the original paragraph including the words so inserted, may be stricken out, if, in effect, it presents a new proposition, and a new coherence may also be inserted in place of that stricken out (5 H.P. 5758). It is not in order to amend an amendment that has been agreed to; but the amendment, with other words of the original paragraph, may be stricken out in order to insert a new text of a different meaning (5 H.P. 5763). It is not in order to offer an amendment identical with one previously disagreed to (8 C.P. 2834). If a proposed amendment is not susceptible to any other interpretation than that which might reasonably be given an amendment previously rejected it is not admissible (8 C.P. 2835). While not in order to insert by way of an amendment a paragraph similar to one already stricken out, an amendment will not be ruled out for that reason unless practically identical (8 C.P. 2839). It is in order to offer as an amendment a proposition similar, but not substantially identical, with one previously rejected (8 C.P. 2838). A motion to strike out certain words being disagreed to it is in order to strike out a portion of those words (8 C.P. 2858). While it is not in order to strike out a portion of an amendment once agreed to, yet words may be added to the amendment (5 H.P. 5764, 5765). A motion may be withdrawn in the house although an amendment to it may have been offered and be pending (5 H.P. 5347). The fact that a proposed amendment is inconsistent with the text, or embodies a proposition already voted on, constitutes a condition to be passed upon by the house and not by the speaker (2 H.P. 1327). A new bill may be engrafted by way of amendment on the words “Be it enacted,” etc. (5 H.P. 5781). A proposition offered as a substitute amendment and rejected may nevertheless be offered again as an amendment in the nature of a new section (5 H.P. 5797).

Rule 12. Printing

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RULE 12
Printing

Section 1. Printings of Bills and Joint Resolutions — (a) Except as otherwise provided in this rule, all bills and joint resolutions shall be printed and a copy provided to each member at each of the following stages in the parliamentary progress of the bill or joint resolution:

(1) at the time of the committee report on the bill or joint resolution, which shall be known as "First Printing" and which shall consist of:

(A) a complete text of the bill or joint resolution as reported from committee;

(B) a complete copy of the bill analysis, a complete copy of the summary of committee action, and a complete copy of the witness list;

(C) the text of the committee report;

(D) the record vote by which the measure was reported from committee, including the vote of individual members;

(E) a copy of the latest fiscal note; and

(F) a copy of each impact statement received by the committee;

(2) at the time the bill or joint resolution, if amended, finally passes the senate, senate amendments and house engrossment text will be printed, which shall be known as "Second Printing"; and

(3) at the time the conference committee, if any, makes its report on the bill or joint resolution, which shall be known as "Third Printing."

(b) In any section of the first printing of a bill or joint resolution that proposes to amend an existing statute or constitutional provision, language sought to be deleted must be bracketed and stricken through, and language sought to be added must be underlined. This requirement does not apply to:

(1) an appropriations bill;

(2) a local bill;

(3) a game bill;

(4) a recodification bill;

(5) a redistricting bill;

(6) a section of a bill or joint resolution not purporting to amend an existing statute or constitutional provision;

(7) a section of a bill or joint resolution that revises the entire text of an existing statute or constitutional provision, to the extent that it would confuse rather than clarify to show deletions and additions; and

(8) a section of a bill or joint resolution providing for severability, nonseverability, emergency, or repeal of an existing statute or constitutional provision.

(c) The speaker may overrule a point of order raised as to a violation of Subsection (b) of this section if the violation is typographical or minor and does not tend to deceive or mislead.

EXPLANATORY NOTES

See Rule 8, Sec. 14, and Rule 13, Secs. 5 and 10, on printed copies required prior to consideration.

Section 2. Local Bills — Local bills shall not be reprinted after the first printing except when ordered printed by a majority vote of the house.

Section 3. Concurrent Resolutions — A concurrent resolution shall be printed only if the resolution:

(1) grants permission to sue the state;

(2) memorializes Congress to take or to refrain from taking certain action;

(3) sets legislative policy or declares legislative intent;

(4) makes corrective changes in any bill, joint resolution, or conference committee report;

(5) establishes or interprets policy for a state agency, department, or political subdivision;

(6) establishes, modifies, or changes internal procedures or administration of the legislature or any component part thereof;

(7) proposes an amendment to the Joint Rules of the Senate and the House of Representatives; or

(8) is ordered printed by a majority vote of the house.

Section 4. House Resolutions — A house resolution shall be printed only if the resolution:

(1) proposes an amendment to the rules of the house;

(2) establishes, modifies, or changes the internal procedures and administration of the house;

(3) establishes legislative policy or interprets legislative intent; or

(4) is ordered printed by a majority of the house.

EXPLANATORY NOTES

If house and concurrent resolutions are required to be printed, the printing stages would be the same as those provided in Sec. 1 of this rule.

Section 5. Acceptable Standards of Compliance With Printing Requirements — Except for matter to be printed in the journal, all requirements contained in the rules with respect to the printing of bills, resolutions, reports, and other matters shall be considered complied with if the material is adequately and properly reproduced by any acceptable means of reproduction.

Rule 13. Interactions With the Governor and Senate

Chapter A. Messages

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RULE 13
Interactions With the Governor and Senate

Chapter A. Messages

Section 1. Messages From the Governor — Messages and communications from the governor shall be received when announced, and shall be read on the calendar day received.

Section 2. Messages From the Senate — (a) All messages from the senate shall be received when announced. Senate bills announced as passed shall be read for the first time and referred to the appropriate committee as soon as practicable.

(b) Messages from the senate announcing amendments to house bills and resolutions, nonconcurrence in house amendments to senate bills and resolutions, requests for conference committees, reports of conference committees, and all other matters of disagreement, amendments, and requests between the two houses, shall go to the speaker's desk in their regular order, but may be called up for action by the house at any time as a privileged matter, yielding only to a motion to adjourn.

EXPLANATORY NOTES

1. A motion to reconsider the vote on a privileged motion, such as those described in Subsec. (b) of this section, has the same high priority as the original motion.
2. In view of the high priority given conference reports in the above rule Speaker W. O. Reed held, in the 50th Legislature, that a conference report on a house bill could properly be considered on a senate bill day.

Chapter B. Senate Amendments

Section 3. House Action on Senate Amendments — When a bill, resolution, or other matter is returned to the house with senate amendments, the house may:

(1) agree to the amendments; or

(2) disagree to all of the amendments and ask for a conference committee; or

(3) agree to one or more of the amendments and disagree as to the remainder and request a conference committee to consider those in disagreement; or

(4) agree to one or more and disagree as to the remainder; or

(5) disagree to all amendments.

EXPLANATORY NOTES

1. The chief clerk should notify members when their bills are returned to the house with senate amendments.

2. The mover of a main motion to concur in senate amendments or not to concur and request a conference committee, or a variation of these motions, is allowed the usual twenty minutes to open and close debate on the motion if he so desires. Additional time may be allowed by the house as described in Rule 5, Sec. 28.

3. In recent practice, the chair has closely reviewed the germaneness of senate amendments to house bills. There is nothing in the rules that could possibly prevent a member from raising a point of order against a clear violation of Sec. 30 of Art. 3 of the constitution and having it sustained. If a point of order is sustained against a nongermane senate amendment, the bill is returned to the senate with a message to that effect.

The speaker may refuse to recognize a member for the motion to concur in senate amendments if the speaker considers an amendment to be not germane.

4. Since direct negatives as substitutes are not in order, if a motion "to concur" in senate amendments is pending, a substitute "not to concur" is not in order because a refusal to adopt the first motion would gain the same end. A motion not to concur and ask for a conference would be in order, however, because it contains other matter which keeps it from being a direct negative.

5. A senate committee substitute for a house bill reported out of a senate committee and then amended on the senate floor and finally passed is, so far as the motions to concur or not concur and request a conference in the house are concerned, a single senate amendment. It is not divisible.

HOUSE PRECEDENTS

1. HELD THAT MAKING MOTION TO CONCUR IS NOT EXCLUSIVELY THE RIGHT OF THE AUTHOR. — In the 54th Legislature the speaker, Mr. Lindsey, ruled that making the motion "to concur" or "not to concur" is not exclusively the right of the author (or member in charge) of a bill, same being the right of any member. However, he pointed out that custom and propriety dictated that the author or member in charge of a bill should be given full opportunity to determine upon the course of action and that he would refuse to recognize any other member until it became evident that the author, or member in charge, would refuse to act.

2. IN ORDER TO POSTPONE A PRIVILEGED MATTER, AND WHEN POSTPONED THE PRIVILEGED NATURE IS RETAINED. — The house was considering a conference committee report. Mr. Hartzog moved to postpone the report to a time certain. Mr. Morris raised the point of order that the motion was out of order because the report was privileged matter under Sec. 2(b) of this rule. The speaker, Mr. Homer Leonard, overruled the point of order, stating that privileged matters could be postponed or laid on the table subject to call by a majority vote, and that when the time came for their consideration they would retain their privileged nature. (47 H.J. Reg. 3710 (1941)).

3. CASE WHERE THE SPEAKER RULED OUT A SENATE AMENDMENT TO A HOUSE BILL, WHICH AMENDMENT CLEARLY CHANGED THE PURPOSE OF THE HOUSE BILL IN A MAJOR DEGREE. — Mr. Celaya moved to concur in senate amendments to H.B. 1116. Mr. Wood raised a point of order on consideration of the

motion to concur on the ground that the amendments were put on the bill in violation of Sec. 30 of Art. 3 of the constitution which provides that "no bill shall be so amended in its passage through either house, as to change its original purpose."

The speaker, Mr. Calvert, in sustaining the point of order pointed out that the original house bill as passed and sent to the senate was a local fishing license law for McLennan County, and that the senate, by amendments striking out all below and above the enacting clause, had substituted an entirely new bill which was a general fishing license law for the entire state, such a change in the purpose of the original bill being clearly a violation of the constitution. (45 H.J. Reg. 2592 (1937)).

4. CASE WHERE BILL WAS DECLARED PASSED WHEN THE SENATE RECEDED FROM ITS AMENDMENTS. — H.B. 373 passed the house and then passed the senate with amendments. The house refused to concur in the senate amendments and asked for the appointment of a conference committee. This request was granted, and, while the lieutenant governor was considering naming of the conference committee on the part of the senate, a resolution was offered and adopted in the senate receding from the amendments to which the house had disagreed originally. The house was duly notified of the passage of the resolution. Mr. Harris of Dallas raised a point of order that when the house disagreed on the amendments and the matter had moved to the status just described that the senate could not recede.

The speaker, Mr. Homer Leonard, overruled the point of order and called the attention of the house, first to the fact that the bill and amendments had not been turned over to a conference committee because none existed as yet, the lieutenant governor not having named the senate conferees. He pointed next to the fact that when the senate receded from its position there were, in fact, no differences between the two houses, both having passed the bill in identical form, and, in support of this position he discussed congressional precedents which upheld the idea that whenever by receding or by other parliamentary method the two houses are brought together on the text of a bill then the bill is considered passed. (47 H.J. Reg. 3003 (1941)).

Section 4. Adoption of Senate Amendments for Bills With Immediate Effect — If a bill is to go into immediate effect, senate amendments thereto must be adopted by a vote of two-thirds of the elected membership of the house.

Section 5. Printing Senate Amendments — (a) Senate amendments to house bills and resolutions must be printed and copies provided to the members at least 24 hours before any action can be taken thereon by the house during a regular or special session.

(b) When a house bill or joint resolution, other than the general appropriations bill, with senate amendments is returned to the house, the chief clerk shall request the Legislative Budget Board to prepare a fiscal note outlining the fiscal implications and probable cost of the measure as impacted by the senate amendments. A copy of the fiscal note shall be distributed with the senate amendments on their printing before any action can be taken on the senate amendments by the house.

(c) When a house bill or joint resolution, other than the general appropriations bill, with senate amendments is returned to the house, the chief clerk shall request the Texas Legislative Council to prepare an analysis that describes the substantive changes made to the house version of the bill by the senate amendments. A copy of the council's analysis of senate amendments shall be provided to the members electronically or as a printed copy at least 12 hours before action is taken on the senate amendments by the house. The Texas Legislative Council shall make all reasonable efforts to timely provide the analysis in as accurate a form as time allows. However, an unavoidable inability to provide the analysis or an inadvertent error in the analysis is not a sustainable question of order.

(d) When a house bill or joint resolution for which a tax equity note was required under Rule 4, Section 34(b)(5), is returned to the house with senate amendments, the chief clerk shall request the Legislative Budget Board to prepare a tax equity note estimating the general effects of the senate amendments on the distribution of tax and fee burdens among individuals and businesses. A copy of the updated tax equity note shall be made available to each member, in some format, before any vote on the floor can be taken on the senate amendments by the house.

EXPLANATORY NOTES

The motion "to suspend the rules for the purpose of concurring in senate amendments" to a bill or resolution is in order. The motion requires a two-thirds vote of the membership if the bill is to go into immediate effect. The endorsement of the chief clerk regarding affirmative action on a motion of this sort should be as follows: "Rules suspended and senate amendments adopted by the following vote: Yeas , Nays ." Whenever a motion to suspend this particular rule is made and carried, even before senate amendments are distributed to the members, the amendments are nevertheless printed in the journal if adopted.

Chapter C. Conference Committees

Section 6. Membership and Operation — In all conferences between the senate and the house by committee, the number of committee members from each house shall be five. All votes on matters of difference shall be taken by each committee separately. A majority of each committee shall be required to determine the matter in dispute. Reports by conference committees must be signed by a majority of each committee of the conference.

EXPLANATORY NOTES

1. The names of house conferees should accompany a request to the senate for a conference, not be sent later.

2. Six official copies of conference committee reports are signed by the conferees, three going to each house, usually in keeping of the chairmen who file the copies with the appropriate clerks. When a conference committee report on a house bill is laid before the house one copy of the report goes immediately to the journal clerk. If adopted,

the chief clerk so endorses the other two copies, sending one by messenger to the senate, and holds the other copy awaiting action on the report by the senate. If the senate adopts the report, an officially endorsed copy will be sent to the house, and the chief clerk causes the conference committee report to be enrolled showing action thereon by both houses and it is printed in the journal.

3. See Sec. 10(b) of this rule, regarding the form and submission of conference committee reports.

Section 7. Meetings — House conferees when meeting with senate conferees to adjust differences shall meet in public and shall give a reasonable amount of notice of the meeting in the place designated for giving notice of meetings of house standing committees. Any such meeting shall be open to the news media. Any conference committee report adopted in private shall not be considered by the house.

EXPLANATORY NOTES

It has long been held that the rules do not require a meeting of conferees to act on a conference committee report. Rather, the signatures of three of the five members are considered adequate to report the measure without regard to whether a meeting has been held.

Section 8. Instructions — Instructions to a conference committee shall be made after the conference is ordered and before the conferees are appointed by the speaker, and not thereafter.

Section 9. Limitations on Jurisdiction — (a) Conference committees shall limit their discussions and their actions solely to the matters in disagreement between the two houses. A conference committee shall have no authority with respect to any bill or resolution:

(1) to change, alter, or amend text which is not in disagreement;

(2) to omit text which is not in disagreement;

(3) to add text on any matter which is not in disagreement;

(4) to add text on any matter which is not included in either the house or senate version of the bill or resolution.

This rule shall be strictly construed by the presiding officer in each house to achieve these purposes.

(b) Conference committees on appropriations bills, like other conference committees, shall limit their discussions and their actions solely to the matters in disagreement between the two houses. In addition to the limitations contained elsewhere in the rules, a conference committee on appropriations bills shall be strictly limited in its authority as follows:

(1) If an item of appropriation appears in both house and senate versions of the bill, the item must be included in the conference committee report.

(2) If an item of appropriation appears in both house and senate versions of the bill, and in identical amounts, no change can be made in the item or the amount.

(3) If an item of appropriation appears in both house and senate versions of the bill but in different amounts, no change can be made in the item, but the amount shall be at the discretion of the conference committee, provided that the amount shall not exceed the larger version and shall not be less than the smaller version.

(4) If an item of appropriation appears in one version of the bill and not in the other, the item can be included or omitted at the discretion of the conference committee. If the item is included, the amount shall not exceed the sum specified in the version containing the item.

(5) If an item of appropriation appears in neither the house nor the senate version of the bill, the item must not be included in the conference committee report. However, the conference committee report may include appropriations for purposes or programs authorized by bills that have been passed and sent to the governor and may include contingent appropriations for purposes or programs authorized by bills that have been passed by at least one house.

This rule shall be strictly construed by the presiding officer in each house to achieve these purposes.

(c) Conference committees on tax bills, like other conference committees, shall limit their discussions and their actions solely to the matters in disagreement between the two houses. In addition to the limitations contained elsewhere in the rules, a conference committee on a tax bill shall be strictly limited in its authority as follows:

(1) If a tax item appears in both house and senate versions of the bill, the item must be included in the conference committee report.

(2) If a tax item appears in both house and senate versions of the bill, and in identical form and with identical rates, no change can be made in the item or the rate provided.

(3) If a tax item appears in both house and senate versions of the bill but at differing rates, no change can be made in the item, but the rate shall be at the discretion of the conference committee, provided that the rate shall not exceed the higher version and shall not be less than the lower version.

(4) If a tax item appears in one version of the bill and not in the other, the item can be included or omitted at the discretion of the conference committee. If the item is included, the rate shall not exceed the rate specified in the version containing the item.

(5) If a tax item appears in neither the house nor the senate version of the bill, the item must not be included in the conference committee report.

This rule shall be strictly construed by the presiding officer in each house to achieve these purposes.

(d) Conference committees on reapportionment bills, to the extent possible, shall limit their discussions and their actions to the matters in disagreement between the two houses. Since the adjustment of one district in a reapportionment bill will inevitably affect other districts, the strict rule of construction imposed on other conference committees must be relaxed somewhat

when reapportionment bills are involved. Accordingly, the following authority and limitations shall apply only to conference committees on reapportionment bills:

(1) If the matters in disagreement affect only certain districts, and other districts are identical in both house and senate versions of the bill, the conference committee shall make adjustments only in those districts whose rearrangement is essential to the effective resolving of the matters in disagreement. All other districts shall remain unchanged.

(2) If the matters in disagreement permeate the entire bill and affect most, if not all, of the districts, the conference committee shall have wide discretion in rearranging the districts to the extent necessary to resolve all differences between the two houses.

(3) Insofar as the actual structure of the districts is concerned, and only to that extent, the provisions of Subsection (a) of this section shall not apply to conference committees on reapportionment bills.

(e) Conference committees on recodification bills, like other conference committees, shall limit their discussions and their actions solely to the matters in disagreement between the two houses. The comprehensive and complicated nature of recodification bills makes necessary the relaxing of the strict rule of construction imposed on other conference committees only to the following extent:

(1) If it develops in conference committee that material has been inadvertently included in both house and senate versions which properly has no place in the recodification, that material may be omitted from the conference committee report, if by that omission the existing statute is not repealed, altered, or amended.

(2) If it develops in conference committee that material has been inadvertently omitted from both the house and senate versions which properly should be included if the recodification is to achieve its purpose of being all-inclusive of the statutes being recodified, that material may be added to the conference committee report, if by the addition the existing statute is merely restated without substantive change in existing law.

(f) Limitations imposed on certain conference committees by the provisions of this section may be suspended in part by permission of the house to allow consideration of and action on a specific matter or matters which otherwise would be prohibited. Permission shall be granted only by resolution passed by majority vote of the house. All such resolutions shall be privileged in nature and need not be referred to a committee. The introduction of such a resolution shall be announced from the house floor and the resolution shall be eligible for consideration by the house three hours after a copy of the resolution has been distributed to each member. The time at which the copies of such a resolution are distributed to the members shall be time-stamped on the originals of the resolution. The resolution shall specify in detail:

(1) the exact language of the matter or matters proposed to be considered;

(2) the specific limitation or limitations to be suspended;

(3) the specific action contemplated by the conference committee;

(4) except for a resolution suspending the limitations on the conferees for the general appropriations bill, the reasons that suspension of the limitations is being requested; and

(5) a fiscal note distributed with the resolution outlining the fiscal implications and probable cost of the items to be included in the conference committee report that would otherwise be prohibited but for the passage of the resolution.

In the application of this subsection to appropriations bills, the resolution need not include changes in amounts resulting from a proposed salary plan or changes in format that do not affect the amount of an appropriation or the method of finance of an appropriation, but shall include a general statement describing the salary plan or format change. The resolution need not include differences in language which do not affect the substance of the bill.

Permission thus granted shall suspend the limitations only for the matter or matters clearly specified in the resolution, and the action of the conference committee shall be in conformity with the resolution.

Section 10. Printing and Distribution of Reports — (a) All conference committee reports must be printed and a copy furnished to each member at least 24 hours before action can be taken on the report by the house during a regular or special session.

(b) Three original copies of a conference committee report shall be submitted to the chief clerk for printing. Each original conference committee report shall contain the following:

(1) the signatures of the house conferees and senate conferees who voted to adopt the conference committee report;

(2) the text of the bill or resolution as adopted by the conference committee; and

(3) an analysis of the conference committee report as required by Section 11 of this rule.

(c) Before action can be taken by the house on a conference committee report on a bill or joint resolution, other than the general appropriations bill, a fiscal note outlining the fiscal implications and probable cost of the conference committee report shall be submitted to the chief clerk, and a copy of the fiscal note shall be distributed with the conference committee report on its printing.

(d) Before a vote on the floor can be taken by the house on a conference committee report on a bill or joint resolution for which a tax equity note was required under Rule 4, Section 34(b)(5), a tax equity note estimating the general effects of the conference committee report on the distribution of tax and fee burdens among individuals and businesses shall be submitted to the chief clerk, and a copy of the tax equity note shall be made available to each member.

EXPLANATORY NOTES

1. See also the annotation following Sec. 6 of this rule, regarding the disposition of the official copies of conference committee reports.

2. Frequently, usually to avoid the time lapses required in the above section, the motion "To suspend the rules for the purpose of adopting the conference report" on a particular bill is made. Basically, such a motion requires only a two-thirds vote (of the members present and voting) for adoption. If the motion is adopted, the speaker declares the rules suspended and the report adopted. However, such motion must be adopted by a record vote, and receive at least one hundred (two-thirds of the membership) affirmative votes if the bill covered by the conference report is to go into immediate effect. The endorsement by the chief clerk regarding affirmative action on a motion of this sort should be as follows: "Rules suspended and Conference Report adopted by the following vote: Yeas , Nays ."

3. If it is not desired to put a bill into immediate effect, but for reasons it is desired to suspend the rules to obtain a vote on the conference report, a non-record vote should be taken. If it becomes evident that a record vote is to be demanded (by 3 members or more), then two separate motions could be utilized. The first motion should be, "To suspend the rules for the purpose of making the motion to adopt the conference report on ." The second should be, "To adopt the conference report on ." Of course, if a record vote is demanded on the latter motion, and it receives 100 affirmative votes, in so far as the house is concerned the bill would go into immediate effect. This situation is unlikely. A better route would be not to put an "immediate effect" clause in the bill reported by the conference.

Section 11. Analysis of Reports — All reports of conference committees shall include an analysis showing wherein the report differs from the house and senate versions of the bill, resolution, or other matter in disagreement. The analysis of appropriations bills shall show in dollar amounts the differences between the conference committee report and the house and senate versions. No conference committee report shall be considered by the house unless such an analysis has been prepared and distributed to each member.

EXPLANATORY NOTES

Note that Rule 12.10, Senate Rules, expressly requires a "section-by-section analysis" showing disagreements "in parallel columns." In practice, "side by side" analyses tend to identify those sections that are not in disagreement in addition to the sections that are in disagreement.

Section 12. Consideration of Reports — A conference committee report is not subject to amendment, but must be accepted or rejected in its entirety. While a conference committee report is pending, a motion to deal with individual amendments in disagreement is not in order.

Section 13. When Reports Not Acceptable — When a conference committee report is not acceptable to the house for any reason, it may be recommitted to the same committee with the request for further consideration, and the house may or may not give any specific instructions on the report to the

conference committee; or the house may request the appointment by the senate of a new conference committee and then proceed to empower the speaker to name new conferees for the house.

NOTES AND PRECEDENTS ON CONFERENCES

EXPLANATORY NOTES

1. A number of rulings have made it clear that conference committee reports could not be changed by concurrent resolutions after adoption. Such resolutions have sought to "amend" such reports or to direct the appropriate engrossing and enrolling clerk to make specified changes. However, from time to time concurrent resolutions have been adopted which instructed an engrossing and enrolling clerk to make corrections in typographical errors, punctuation, section numbering, accidental omissions due to stenographic errors, and the like, all of which were changes to which there was little or no objection and all of which were designed to perfect the final legislative product.

2. In the case of conference committee reports on biennial appropriation bills, for a number of years it has been the practice, because of the size and nature of the bills, to admit concurrent resolutions to correct accidental omissions, wording, titles, totals, typographical errors and the like. Often these were admitted under protest that such changes could not be made in such a manner. Admitting the question of procedural legality in general, presiding officers went along with the procedure as the best for all practical purposes. However, in the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled in order a supplement to the original conference committee report which contained all needed corrections, holding this type of procedure was preferable to a concurrent resolution. The report was adopted.

3. Conference committees are composed of five members, as provided above. Usually where the vote in the house has been close on the major point or points at issue, the speaker gives the majority three members and the minority two members on the committee. When the vote is not close but there has been a strong minority fight, the minority is usually given one place on the committee.

4. A conference report must receive a two-thirds vote of each house in order to put the measure into immediate effect, except in case of the general appropriations act. The same is true regarding concurrence in senate amendments. The mere concurrence in senate amendments by a two-thirds vote does not put a measure into immediate effect unless final passage in each house was obtained by a two-thirds vote.

5. A slight deviation from the conference report rule just stated is recognized, because in a decision handed down on June 27, 1931, Judge Morrow, presiding judge of the Court of Criminal Appeals, said: "It seems enough to say that a reasonable and logical interpretation of the controlling provision of the Constitution of this State confers upon the Legislature both the power (by a record vote of two-thirds vote of the Members of each House) to change the time within which an act of the Legislature may ordinarily become effective, and requires that they exercise such authority and power at the time when they become aware of the terms of the law as finally agreed upon. Previous action

upon a bill in its initial stages, before material and radical changes have been made, would not control." In the light of this decision, it would be reasonable to assume that if a bill did not receive the necessary two-thirds record vote on final passage in both houses and was not subjected to "material and radical changes" in conference, the adoption of the conference report by the necessary two-thirds record vote in both houses would not put the bill into immediate effect. On the other hand, if such changes had been made in conference and the necessary two-thirds record vote obtained on the adoption of the conference report, then the bill would go into immediate effect.

6. See annotation following Rule 9, Sec. 1, on vote required to concur in senate amendments to a house joint resolution and to adopt a conference committee report on a joint resolution.

HOUSE PRECEDENTS

1. CAN NOT INSTRUCT CONFERENCE COMMITTEE WHEN TO REPORT IF THE COMMITTEE HAS ALREADY BEEN APPOINTED. — Mr. Alsup moved to instruct the conference committee on House Bill No. 1 to bring in a conference report within a certain time.

Mr. Van Zandt raised a point of order on the ground that a conference committee can not be instructed when to report after they have already been appointed.

The speaker, Mr. Stevenson, sustained the point of order. (43 H.J. 3 C.S. 294 (1933)).

Also, any action the house could take would only affect the house conferees, and they alone could not, of course, bring back any report for adoption.

2. NOT IN ORDER TO INSTRUCT A CONFERENCE COMMITTEE TO INCLUDE IN ITS REPORT, IN VIOLATION OF THE RULES, MATTER NOT IN DISAGREEMENT BETWEEN THE TWO HOUSES. — The house had just refused to concur in the senate amendments to H.B. 5. Mr. Morse moved that the conference committee be instructed to include certain matter in its report.

Mr. Jones of Wise raised a point of order against the motion on the ground that it sought, in violation of the rules, to have the committee include matter which was not in disagreement between the houses.

The speaker, Mr. Calvert, sustained the point of order. (45 H.J. Reg. 3056 (1937)).

The senate amendments to H.B. 5 were of minor importance in form and content, so far as the bill was concerned, and affected only parts of the bill, so they did not bring the disagreement situation under the exceptions set out in the then Sec. 8.

3. FURTHER POINT REGARDING INSTRUCTIONS TO CONFEREES ON INCLUSION IN THEIR REPORT OF MATTER NOT IN DISAGREEMENT BETWEEN THE TWO HOUSES. — Mr. Sewell moved that the house conferees on H.B. 285 be instructed as follows: That the provisions of H.B. 669 as same passed the house be included in H.B. 285.

Mr. Murphy raised the point of order that the inclusion of H.B. 669 in H.B. 285 is not a matter of disagreement between the two houses, and that any attempt to instruct the house conferees to include same as a part of H.B. 285 would be out of order.

The speaker, Mr. Senterfitt, sustained the point of order. (52 H.J. Reg. 2578 (1951)).

Had the substance of H.B. 669 become a part of H.B. 285 in its passage through either house, resulting in a matter of difference, then instructions relating thereto would have unquestionably been in order, but such was not the case.

4. HOUSE HAS NO RIGHT TO DISCHARGE ITS CONFEREES ON A SENATE BILL WHILE BILL IS STILL IN CONFERENCE. — Mr. Love moved that the conferees on S.B. 167 be discharged and that a new conference committee be appointed on the part of the house and that the senate be requested to appoint a new committee to adjust the differences between the two houses. Mr. Cato raised a point of order on further consideration of the motion on the ground that such a motion as Mr. Love's must originate in the house where the bill originated while the bill is still in conference. The speaker, Mr. Gilmer, sustained the point of order. (49 H.J. Reg. 2758 (1945)).

CONGRESSIONAL PRECEDENTS

SENATE AMENDMENTS. — Revenue bills must originate in the house, but the senate may concur with amendments (2 H.P. 1480). Instances wherein the senate has acquiesced in the constitutional requirement as to revenue bills, while holding to a broad power of amendment (2 H.P. 1497-1499). It is for the house and not the speaker to decide whether or not a senate amendment on the subject of revenue violates the privileges of the house. (2 H.P. 1320).

DISAGREEMENTS BETWEEN THE HOUSES — CONFERENCES. — Sometimes one house disregards the request of the other for a conference and recedes from its disagreement, thereby rendering a conference unnecessary (5 H.P. 6316, 6318). The majority of the managers of a conference should represent the attitude of a majority of the house on the disagreements (5 H.P. 6336). In a conference the managers of the two houses vote separately (5 H.P. 6336). The house may instruct its managers of a conference, and the motion to instruct should be offered after the vote to ask for or to agree to a conference, and before the managers are appointed (5 H.P. 6379-6382). The motion to instruct conferees may be amended unless the previous question has been ordered (5 H.P. 6525). While it is unusual to instruct conferees before a conference is had, it is in order to move instructions for a first conference as for any subsequent conference (8 C.P. 3230). A conference may be had on only a portion of the amendments in disagreement, leaving the differences as to the remainder to be settled by the action of the two houses themselves (5 H.P. 6401). After a conference has been agreed to and the managers for the house appointed it is too late to reconsider the vote whereby the house acted on the amendments in disagreement (5 H.P. 5664). Conferees do not usually admit persons to make arguments before them (5 H.P. 6263). The motion to agree or concur should be put in the affirmative and not in the negative form (5 H.P. 6166). A conference report being presented, the question on agreeing to it is regarded as pending (5 H.P. 6517). The motion to agree is the pending question to a conference report, and the motion to disagree is not admitted (2 H.P. 1473). Although a conference report may be in disregard of the instructions given the managers, yet

it may not be ruled out on a point of order (5 H.P. 6395). A conference report must be accepted or rejected in its entirety, and while it is pending no motion to deal with individual amendments in disagreements is in order (5 H.P. 6323). A conference report is not subject to amendment, but must be considered and disposed of as a whole (8 C.P. 3306). The rejection of a conference report leaves the matter in the position it occupied before the conference was asked (5 H.P. 6525). Where managers of a conference are unable to agree, or where a report is disagreed to in either house, another conference is usually asked (5 H.P. 6288-6291). Where a conference report is ruled out of order, the bill and amendments are again before the house as when first presented, and motions relating to amendments and conference are again in order (8 C.P. 3257). The speaker may rule a conference report out of order if it is shown that the conferees have exceeded their authority (8 C.P. 3256). Exceeding authority does not mean violating instructions given conferees. Action on a conference report by either house discharges the committee of conference and precludes a motion to recommit, but until one house has acted on the report the motion to recommit to the conferees, with or without instructions, is in order (8 C.P. 3241). The failure of a conference does not prevent either house taking such independent action as may be necessary to pass a bill (5 H.P. 6320).

Rule 14. General Provisions

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RULE 14
General Provisions

Section 1. When Rules Are Silent — If the rules are silent or inexplicit on any question of order or parliamentary practice, the Rules of the House of Representatives of the United States Congress, and its practice as reflected in published precedents, and Mason's Manual of Legislative Procedure shall be considered as authority.

Section 2. Amendments to the Rules — (a) Amendments to the rules of the house shall be proposed by house resolutions which shall be referred at once, without debate, to the Committee on Rules and Resolutions for study and recommendation.

(b) A resolution proposing an amendment to the rules shall not be considered by the house until a printed copy of the resolution has been provided to each member of the house at least 48 hours before consideration.

(c) Amendments to the rules shall require a majority vote of the house for adoption.

Section 3. Motion to Suspend the Rules — A motion to suspend the rules shall be in order at any time, except when motions to adjourn or recess are pending, even when the house is operating under the previous question. A motion to "suspend all rules" shall be sufficient to suspend every rule under which the house is operating for a particular purpose except the provisions of the constitution, the statutes, and the joint rules of the two houses. If the rules have been suspended on a main motion for a given purpose, no other motion to suspend the rules on a main motion shall be in order until the original purpose has been accomplished.

EXPLANATORY NOTES

1. The wording "at any time," as used in the above paragraph, does not, however, give such a motion priority over the motions to adjourn or recess. In the 53rd Legislature the speaker, Mr. Senterfitt, held that those motions can be made and entertained when a motion "to suspend the rules" is pending.

2. Under the above rule it has been the practice for many years for a member, having in mind "a particular purpose," to move a suspension of the rules for that purpose. Members have a wide latitude — practically unlimited — in describing such purpose. A single vote, if carried by the required two-thirds, is sufficient to obtain the desired result. For example, in the house journal of the 50th Legislature there is recorded certain action on H.B. 44. The bill was ruled illegally introduced because three identical copies had not been filed with the chief clerk. Then "Mr. Sadler moved that Sec. 1 of Rule XVIII (now revised as Rule 8, Sec. 9) be suspended in order to consider H.B. 44 in the same status as before the point of order by Mr. Fly . . . ."

This motion was passed, 100 yeas to 38 nays. Thus a suspension occurred "for a particular purpose." The notion that some motions to suspend the rules "for the purpose of" are "double motions" is entirely

erroneous. The above section gives full and specific authority for a member to define the "purpose" as he wishes. See the congressional precedents following.

3. If a resolution contains a provision which, if adopted, would be equivalent to a suspension of the rules it would require a two-thirds vote for adoption.

4. There is nothing in the above section or elsewhere in these rules requiring a record vote for a suspension of the rules.

HOUSE PRECEDENTS

1. MOTION TO SUSPEND THE RULES IS IN ORDER ANY TIME, EVEN WHEN THE HOUSE IS OPERATING UNDER THE PREVIOUS QUESTION. — (44 H.J. Reg. 479 (1935)).

2. ONE SUSPENSION IN ORDER AT A TIME. — In the 51st Legislature, the speaker, Mr. Manford, ruled that the purpose for which a suspension of the rules was voted must be accomplished before another suspension of the rules is in order.

3. MOTION TO RECONSIDER A SUCCESSFUL SUSPENSION OF THE RULES VOTE IN ORDER UNDER CERTAIN CONDITIONS. — A motion to refer a bill having been ruled out because the routine motion period had been passed, Mr. Favors moved a suspension of the rules so the house could consider his motion. This motion prevailed. Mr. Harris of Dallas moved to reconsider the vote on suspension of the rules and Mr. Lucas raised the point of order that this motion was out of order.

The speaker, Mr. Homer Leonard, overruled the point of order, stating that such a motion was in order and could be adopted by a majority vote, unless action following the rules suspension had moved the matter to a new stage, such as the actual reading of a bill the first, second or third time. (Obviously a reading of a bill could not be undone. Under such conditions the matter could be disposed of by several other motions.) (47 H.J. Reg. 2257 (1941)).

4. MAY SUSPEND THE RULES FOR THE PURPOSE OF RECONSIDERING A VOTE, EVEN THOUGH THE TIME FOR MAKING THE MOTION TO RECONSIDER HAS PASSED. — Mr. Russell moved to suspend Rule XIII, Section 7 (now Rule 7, Sec. 34) so as to make a motion to reconsider the vote by which the "Heart Balm Bill" failed to pass.

Mr. Alsup raised a point of order on the motion to suspend the rules so as to move to reconsider the vote on the failure of the bill, on the ground such motion to reconsider would violate Section 34, Article 3 of the constitution relative to passage of a defeated measure.

The speaker, Mr. Stevenson, overruled the point of order, on the grounds that the house may, by a two-thirds vote, suspend the rule and then vote to revive the bill. (44 H.J. Reg. 1995 (1935)).

CONGRESSIONAL PRECEDENTS

MOTION TO SUSPEND THE RULES. — The motion may not be amended (5 H.P. 5322, 5405, 6858), postponed (5 H.P. 5322), or laid on the table (5 H.P. 5405).

A motion to suspend the rules applies to the parliamentary law of Jefferson's Manual as well as to the rules of the house (5 H.P. 6796). When the rules are suspended to enable a matter to be considered,

another motion to suspend the rules may not be made during that consideration (5 H.P. 6836, 6837). A motion to suspend the rules may be entertained, although the previous question has been ordered (5 H.P. 6827). Adoption of a motion to "suspend the rules" suspends all rules, including the unwritten law and practice of the house (8 C.P. 3406).

Section 4. Notice of Pending Motion to Suspend the Rules — It shall not be in order to move to suspend the rules or the regular order of business to take up a measure out of its regular order, and the speaker shall not recognize anyone for either purpose, unless the speaker has announced to the house in session that the speaker would recognize a member for that purpose at least one hour before the member is so recognized to make the motion. In making the announcement to the house, the speaker shall advise the house of the member's name and the bill number, and this information, together with the time that the announcement was made, shall be entered in the journal. This rule may be suspended only by unanimous consent.

Section 5. Vote Requirements for Suspension — A standing rule of the house may be suspended by an affirmative vote of two-thirds of the members present. However, if a rule contains a specific provision showing the vote by which that rule may be suspended, that vote shall be required for the suspension of the rule. The specific provision may not be suspended under the provisions of this section.

Section 6. Disposal of Measures Taken Up Under Suspension — Any measure taken up under suspension and not disposed of on the same day shall go over as pending or unfinished business to the next day that the house is in session, and shall be considered thereafter from day to day (except the days used for the consideration of senate bills) until disposed of.

EXPLANATORY NOTES

1. See annotation differentiating between "pending business" and "unfinished business" following the order of business in Rule 6, Sec. 1.

2. A suspension of the regular order of business, as distinguished from a suspension of the rules, is a suspension of that order of business on the speaker's table as described in the 11th item of Rule 6, Sec. 1(a). As directed in the rules, the chair holds to the regular order of business unless the house directs otherwise by a suspension of the rules.

3. The order of recognition to suspend rules is determined entirely by the speaker. While the speaker is guided somewhat by the order in which he receives suspension requests from the members, there is neither rule nor precedent which requires him to adhere to such an order for recognition. In fact, to adhere strictly to a request order would prevent a speaker from recognizing members to bring up matters of major importance such as public and party demands, emergency measures, etc. Also, if a strict request order is followed (and the order is generally known) it is possible for abuses to occur which are not to the best interests of the membership.

HOUSE PRECEDENTS

1. NOT IN ORDER TO RECONSIDER VOTE BY WHICH A BILL IS TAKEN UP ON SUSPENSION OF THE REGULAR ORDER; IN ORDER IF VOTE TO TAKE UP FAILED. — On a Monday the house was considering a bill taken up on a suspension of the regular order of business. It had been read the second time and debate was proceeding. The motion to reconsider the vote by which the bill was taken up and made and, on a point of order that such could not be done, the speaker, Mr. Homer Leonard, sustained the point of order. He held that other disposition must be made of the bill if the house did not wish to continue its consideration since to permit the reconsideration motion would have the effect of wiping out the second reading and proceedings following. (47 H.J. Reg. (1941)).

2. RECONSIDERATION OF MOTION TO SUSPEND. — In the 52nd Legislature the speaker, Mr. Senterfitt, admitted a motion to reconsider the vote by which a motion to suspend the regular order of business had failed. This motion should not be confused with a suspension of the rules motion.

Section 7. Committee Gifts — A member of the house may not offer, confer, or agree to confer to a committee member one or more gifts with a total value of more than $75 per year.

EXPLANATORY NOTES

Rule 14, Sec. 7, prohibits a member of a house committee from offering, conferring, or agreeing to confer to a fellow committee member one or more gifts with a total value of more than $75 per year.

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