

BASIC TRAINING

PARLIAMENTARY PROCESS, FACTS, AND STRATEGIES

PARLIAMENTARY BOOT CAMP

SPOTLIGHT

BUDGET ACT POINTS OF ORDER FOR APPROPRIATIONS BILLS

§ 302(f)

- Prohibits consideration of any amendment which would cause a bill to exceed its 302(b) allocation or the full committee's 302(a) allocation.

§ 311(a)

- Prohibits consideration of any bill or amendment which violates the overall spending or revenue levels set forth in the budget resolution

Open Rules & Amending an Appropriation Bill

A bill considered under an **open rule** is considered under the basic rules of the House. An open rule usually only provides waivers of points of order against the bill and its consideration, considers the base bill as read, and establishes a period of general debate. Amendments are handled under the basic rules of the House, meaning that they are considered under the **five-minute rule**, which allows any Member offering an amendment or speaking on an amendment to be recognized once for 5 minutes and **read for amendment section-by-section**, meaning amendments may only be offered to the section of the bill currently being read for amendment.

Unfortunately, the recent trend under the Democratic majorities in the 110th and 111th Congresses has been away from truly open rules, and using modified-open rules (which have been renamed “open with pre-printing rules”), even for the regular general appropriations bills. This presents its own set of challenges for Members trying to offer amendments.

APPROPRIATIONS FUNDAMENTALS

By tradition, appropriations bills start in the House. They are **privileged**, meaning that they are introduced at time the Committee on Appropriations reports the bill to the House, rather than being dropped into the hopper and referred. The Appropriations subcommittees begin with the text of the President's budget submission, and make changes to that document. For full committee consideration, they produce a **“Full Committee Print”** showing the subcommittee's product. After full committee consideration, the Appropriations Committee staff will produce a **“change sheet”** showing the changes made by the full committee to the print. This is the only documentation available prior to the committee reporting the bill to the House.

CONSIDERATION IN THE HOUSE

The 12 regular **general appropriations bills** are considered as privileged if reported by the Committee on Appropriations and historically were considered under truly open rules. In the past, the Committee on Rules met to report a rule for the consideration of a regular appropriations bill which generally waives points of order against the consideration of the bill, and did little else. The Legislative Branch appropriations bill is usually considered under a structured rule, making in order only certain amendments.

The practice in the second session of the 110th Congress (which is expected to continue in the 111th) was to provide a modified open rule (or what the Democratic majority calls an **“open rule with pre-printing”**) which requires amendments to be pre-printed in the Congressional Record by a date certain. Any perfecting amendment not printed in the Congressional Record by the specified date could not be offered. A pre-printing requirement does not restrict 2nd degree or substitute amendments.

THE BUDGET ACT AND APPROPRIATIONS BILLS

Under the Budget Act of 1974, the Committee on Appropriations receives its overall limit on discretionary spending for the fiscal year, often referred to as the committee's **“A”** after section 302(a) of the Budget Act. Under section 302(b), the Committee on Appropriations divides the funds between the subcommittees to arrive at the **“Bs”** for the individual appropriations bills. Points of order arising out of the Budget Act are described in the sidebar.

LEGISLATING ON APPROPRIATIONS BILLS

Clause 2 of rule XXI prohibits the inclusion of language “changing existing law,” commonly referred to as the **prohibition on legislating on appropriations bills**. One of the reasons why the regular appropriations bills come to the Rules Committee is to provide a waiver of this rule for provisions included in the bill. Generally, appropriations bills carry a number of legislative provisions, many of which the authorizing committees have agreed to. In prior congresses, there has been a protocol for dealing with authorizing committee objections to legislative provisions carried in appropriations bills (referred to as the “Armed Protocol” for then-Majority Leader Dick Arney), however to date it does not appear that the Democratic majority has established a similar process.

There are 2 basic prohibitions in clause 2 of rule XXI: (1) A prohibition on **unauthorized appropriations**; and, (2) a prohibition on **legislation in a reported appropriations bill, or amendments which change existing law**, or limit funds contingent on something not required by current law.

PREPARING FOR HOUSE FLOOR CONSIDERATION

Whether an appropriations bill is considered under an open rule or a modified-open rule, the basic process is the same: the House resolves into the Committee of the Whole to read the bill for amendment. The appropriations bill is **read for amendment by paragraph**, and a Member cannot offer an amendment to a paragraph of the bill which is not currently open for amendment.

The major difference between the traditional method of handling appropriations bills and rules with a pre-printing requirement is the requirement that amendments be printed in the Congressional Record prior to consideration of the bill. The Democratic practice has been to require amendments to be printed by a date certain, usually the day consideration begins on the floor. This is an important distinction in this rule cuts off the ability to add amendments to the “universe” of amendments that can be offered when consideration of a bill extends to multiple days.

The Unanimous Consent Agreement. Because appropriations bills are typically considered for amendment under the 5-minute rule, consideration of appropriations bills can stretch into days. Therefore, the manager of the bill typically wants to enter into a unanimous consent agreement to limit the “**universe**” of potential amendments and set their debate time.

When considering an appropriations bill under a modified open rule (particularly one where the rule specifies a date by which amendments must be printed), the importance of the unanimous consent agreement is diminished in that its primary purpose is only to set debate time rather than establish the amendment universe.

TYPES OF AMENDMENTS TO APPROPRIATIONS BILLS

There are several types of amendments in order on appropriations bills:

1. **Motions to Strike** — A motion to strike a provision is always in order as long as the provision is open for amendment.
2. **“Offset” Amendments** — Clause 2(f) of rule XXI allows 2 amendments to be offered “en bloc” to fund an increase budget authority and outlays in one part of the bill while decreasing budget authority and outlays in another part of the bill. Both budget authority and outlays must be completely offset to qualify under this provision. Due to the complicated calculations required under this mechanism, it is essential that the amendment be scored by CBO and discussed with the staff of the Appropriations Committee.
3. **“Reachback” Amendments** — Reachback amendments indirectly change spending earlier in the bill and are subject only to Budget Act points of order. Unlike an offset amendment, they are subject to division.
4. **Limitation Amendments** — These amendments limit the uses for funds in the bill. A limitation is in order so long as it does not impose any additional duties or burdens on executive branch officials, interfere with their discretionary authority, or require them to make judgments or determinations not required by existing law.