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The Joint Select Committee on Budget and Appropriations Process Reform

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Summary

The Bipartisan Budget Act of 2018 (P.L. 115-123), signed into law on February 9, 2018, creates a new joint select committee of the House and Senate. The Joint Select Committee on Budget and Appropriations Process Reform, made up of 16 members from the House and Senate—four chosen by each of the chambers’ party leaders—is intended to formulate recommendations and legislative language that will “significantly reform the budget and appropriations process.” The law directs the committee to make a report no later than November 30, 2018, which will be submitted along with legislative language to the President, the Speaker of the House, and the majority and minority leaders of the House and Senate.

The act includes procedures that are intended to allow the Senate to reach a timely vote on the question of whether or not to consider legislation embodying the recommendations of the joint select committee. Under the terms of the act, the Senate is directed to vote on a motion to proceed to consider any reported joint committee bill before the conclusion of the 115th Congress (2017-2018). The support of at least three-fifths of the Senate (60 votes if there is no more than one vacancy) would be necessary to take up and approve the motion. The act does not specify any procedures governing consideration of the bill once the Senate has agreed to take it up. There are also no provisions in the act concerning the consideration of the recommendations of the joint select committee in the House, nor are there any provisions concerning resolving any differences between the House and Senate. Such actions would occur under the regular procedures of each chamber.

This report discusses the structure, powers, and funding of the Joint Select Committee on Budget and Appropriations Process Reform and provides an overview of the parliamentary procedures the chambers may use to consider its recommendations.

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What is the joint select committee and why was it created?

On February 9, 2018, President Trump signed the Bipartisan Budget Act of 2018 into law (P.L. 115-123). Subtitle B of Title IV provides for the creation of a Joint Select Committee on Budget and Appropriations Process Reform. The creation of this committee echoes a number of special panels created by Congress in the past in order to study and make recommendations on various issues unconstrained by existing committee jurisdictions. Prior examples include committees tasked with studying a wide spectrum of issues, including both budget process—such as the Joint Committee to Study Budget Control (created by P.L. 92-599)—and other topics, such as the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (also known as the Church Committee after its chairman, Senator Frank Church, created by S.Res. 2, 94th Congress).

What is the authority and jurisdiction of the joint select committee?

The act directs the joint select committee to “provide recommendations and legislative language that will significantly reform the budget and appropriations process.”¹

What is the membership of the committee?

The act requires that the committee be composed of 16 members, with four members appointed by each of the Speaker of the House, the minority leader of the House, the majority leader of the Senate, and the minority leader of the Senate.² Appointments are to be made within 14 days after enactment (February 23, 2018). Members are to serve for the life of the committee, and any vacancy is to be filled within 14 calendar days.³

The act states that the committee will be led by co-chairs. One co-chair is to be appointed jointly by the Speaker of the House and the majority leader of the Senate, while the other co-chair is to be appointed jointly by the House and Senate minority leaders.

The committee shall terminate on December 31, 2018, or 30 days after submission of its report and legislative recommendations, whichever occurs first.⁴

How will the committee be staffed and funded?

Federal agencies (including legislative branch agencies) must provide technical assistance to the committee if requested in writing by the co-chairs. Employees of the legislative branch may be

¹ §30442(b)(2)(A).

² §30442(b)(3).

³ The vacancy is to be filled in the same manner as the original appointment was made. If a member of the joint committee ceases to be a Member of the House or the Senate, he or she is no longer a member of the joint committee, and a vacancy shall exist.

⁴ §30442(d).

detailed to the committee on a non-reimbursable basis consistent with the rules and regulations of the Senate. The co-chairs may jointly designate one employee as staff director of the committee.⁵

The act states that there are authorized to be paid not more than \$500,000 from the appropriations account for “Expenses of Inquiries and Investigations” of the Senate. Such sums are to be disbursed by the Secretary of the Senate, in accordance with Senate rules and procedures, upon vouchers signed by the joint panel’s co-chairs. Authorized funds are to be available for obligation during the period beginning on February 9, 2018—the date of enactment of the Bipartisan Budget Act of 2018—and ending on January 2, 2019.⁶

What are the responsibilities of the committee?

Meetings and Hearings

The committee is required to hold its first meeting not later than 30 calendar days after the date of enactment (March 11, 2018).⁷ The co-chairs of the committee must provide an agenda to committee members at least 48 hours in advance of any meeting.

The committee is authorized and expected to hold hearings that may include testimony from witnesses. The committee is required to hold no fewer than “five public meetings or public hearings” and a minimum of “three public hearings, which may include field hearings.”⁸ The co-chairs of the committee are required to publicly announce the date, place, time, and subject matter of any hearing at least seven days in advance unless the co-chairs determine that there is “good cause” to hold a hearing at an earlier date.

Each co-chair is entitled to select an equal number of witnesses for each hearing. A witness appearing before the committee is required to file a written statement of proposed testimony at least two calendar days before his or her appearance.⁹

The law specifies that nine members of the committee shall constitute a quorum for purposes of voting and meeting, and five members of the committee shall constitute a quorum for holding hearings.¹⁰

Report and Recommendations

The act states that the committee shall provide recommendations and legislative language that will significantly reform the budget and appropriations process. By November 30, 2018, the committee is required to vote on (1) a report that contains a detailed statement of the findings, conclusions, and recommendations of the committee and (2) proposed legislative language to carry out those recommendations.¹¹

⁵ §30442(b)(4)(I).

⁶ §30443.

⁷ §30442(b)(4)(E)(i).

⁸ §30442(b)(4)(G).

⁹ This requirement may be waived by the co-chairs if they determine that there is “good cause” for failure to comply with the requirement.

¹⁰ §30442(b)(4)(C).

¹¹ §30442(b)(2)(B)(i).

The text of any report and proposed legislative language shall be publicly available in electronic form at least 24 hours prior to its consideration by the joint select committee.¹² The report and the proposed legislative language must be approved by a majority of each of (1) the committee members appointed by the Speaker of the House and the majority leader of the Senate and (2) the committee members appointed by the House and Senate minority leaders.¹³ The law specifies that nine members of the committee shall constitute a quorum for purposes of voting. No proxy voting is permitted.¹⁴

Committee members may file supplemental, minority, or additional views to be included in the committee report.¹⁵

What is the time frame for committee action?

The committee is required to hold its first meeting not later than 30 calendar days after the date of enactment (March 11, 2018). By November 30, 2018, the committee is required to vote on (1) a report that contains a detailed statement of the findings, conclusions, and recommendations of the joint committee and (2) proposed legislative language to carry out those recommendations.

What happens once the committee reports?

If the committee approves the report and legislative language, it must make them available to the public “promptly” and submit them to the President, the Vice President, the Speaker of the House, and the majority and minority leaders of each chamber within 15 calendar days of approval.

Upon receipt of proposed legislative language, the Senate majority leader (or his designee) shall introduce it in the Senate (by request) on the next day on which the Senate is in session.¹⁶ There are no provisions in the law concerning the introduction of the recommendations of the joint select committee in the House.

What are the procedures for congressional consideration of the committee’s recommendations?

The Bipartisan Budget Act establishes certain unique procedures for Senate consideration of any legislative language reported by the joint select committee. These procedures are intended to allow the Senate to reach a timely vote on the question of whether or not to consider legislation embodying the recommendations of the joint select committee, but the act does not specify any procedures governing consideration of the bill once the Senate has agreed to take it up. There are no provisions in the act concerning the consideration of the recommendations of the joint select

¹² §30442(b)(2)(B)(ii)(II).

¹³ §30442(b)(2)(B)(ii)

¹⁴ §30442(b)(4)(D).

¹⁵ §30442(b)(2)(B)(iii). A member of the joint committee who gives notice of an intention to file supplemental, minority, or additional views at the time of the final joint committee vote on the approval of the report and legislative language shall be entitled to two calendar days after the day of such notice in which to file such views in writing with the co-chairs. Such views shall then be included in the joint committee report and printed in the same volume, or part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the joint committee report may be printed and transmitted immediately without such views.

¹⁶ §30444(a).

committee in the House. There are also no provisions concerning resolving any differences between the House and Senate or the consideration of a veto message from the President. Such actions would occur under the regular procedures of each chamber. Furthermore, the act includes language recognizing the constitutional authority of the Senate to change rules relating to procedure in the Senate at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.¹⁷

Committee Consideration in the Senate

Once any recommendations of the joint select committee are introduced in the Senate, the bill is to be referred to the Senate Committee on the Budget, which shall report the bill favorably, unfavorably, or without recommendation within seven session days—but without any revisions. If the Budget Committee fails to report the bill within that period, it shall be automatically discharged from consideration of the bill, and the bill shall be placed on the Senate Calendar of Business.¹⁸

The Motion to Proceed in the Senate

Not later than two days of Senate session after a joint committee bill has been reported or discharged from the Budget Committee, the majority leader (or his designee) may move to proceed to consider it. Should the majority leader (or his designee) not make such a motion within two session days, any Senator may do so.¹⁹

The motion to consider a joint committee bill—and all debatable motions and appeals in connection with the motion—shall be considered for a maximum of 10 hours, evenly divided between the majority leader and the minority leader (or their designees). A non-debatable motion to further limit debate would be in order and would require a vote of three-fifths of all Senators—60 votes if there is not more than one vacancy—to pass.²⁰

In order for the recommendations of the joint select committee to be considered by the full Senate, the act requires that the motion to proceed be agreed to by a vote of three-fifths of all Senators—60 votes if there is not more than one vacancy.²¹

The act further specifies that all points of order against the motion to proceed are waived and that a motion to postpone the motion to proceed or a motion to reconsider a vote on it are not in order.²²

Finally, the act directs that not later than the last day of the 115th Congress (2017-2018), the Senate must vote on a motion to proceed to a bill containing recommendations of the joint select committee.²³

¹⁷ §30444(d).

¹⁸ §30444(b).

¹⁹ §40444(c)(1).

²⁰ §30444(c)(2). Since the total time for consideration is limited, time spent in quorum calls or votes would count against the 10-hour total. Because the time is controlled, either side could also yield back some or all of its allocation of time if it were unused.

²¹ §30444(c)(3).

²² §30444(c)(4).

²³ §30444(c)(5).

Floor consideration in the Senate

If the Senate approves the motion to proceed, the joint committee bill may be considered under the regular rules of the Senate so that it will be fully debatable and fully amendable (possibly including by non-germane amendments). Cloture may need to be invoked on one or more questions (requiring the support of three-fifths of all Senators) in order to reach a final vote on it.

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