

## General Protocols for the 115<sup>th</sup> Congress

### **SUNSET REQUIREMENT:**

Purpose: This protocol advances the policy originally outlined in the Pledge to America to adopt a requirement that programs end or “sunset” by a date certain. As stated in the Pledge, this will “force Congress to determine if a program is worthy of continued taxpayer support.”

Protocol: Any bill or joint resolution authorizing discretionary appropriations or providing new or continued direct spending or establishing or continuing an agency, office or program shall also include a provision sunsetting such authorization, direct spending, agency, office, or program not later than seven years after the first fiscal year spending is authorized or provided under the bill or joint resolution. With respect to discretionary spending, a sunset may take the form of setting a date after which no funds are authorized to be appropriated.

### **ELIMINATION OF “SUCH SUMS” DISCRETIONARY AUTHORIZATIONS:**

Purpose: This protocol is designed to improve transparency and accountability in the authorization of discretionary programs.

Protocol: Any bill or joint resolution authorizing discretionary appropriations shall specify the actual amount of funds being authorized. Authorizations shall not utilize terms such as “such sums as may be necessary” or similar language that fails to specify the actual amount of funding being authorized.

### **CUT-GO FOR DISCRETIONARY AUTHORIZATIONS:**

Purpose: This protocol advances the policy outlined by the Republican Leadership in the fall of 2010 to require that bills authorizing funding for new government programs, activities, or benefits or increases in funding for current programs, activities, or benefits also include the termination or reduction of a current program of equal or greater size.

#### Protocol:

(A) New Programs: Any bill or joint resolution which authorizes the appropriation of funds for any new agency, office, program, or benefit shall also include language offsetting the full value of such authorization through a reduction in the authorization of current ongoing spending.

(B) Increased Authorizations: Any bill or joint resolution which increases the authorization of appropriation for any existing agency, office, program, or benefit at a rate that exceeds the overall increase in the relevant function area in the most recent Budget Resolution shall also include language offsetting the full value of such authorization through a reduction in the authorization of current ongoing spending.

(C) Definitions: For the purposes of this protocol a “reduction in the authorization of current ongoing spending” means the establishment of a new authorization level below the amount actually appropriated for such purposes in the most recent fiscal year. For example, if program “A” was authorized at \$100 for FY 2014, but received appropriations of \$90, a “reduction in the authorization of current spending” would be an authorization for FY 2015 at an amount below \$90. The term “current ongoing spending” means spending for an existing program or activity that is assumed to be ongoing at or above current levels. For example, reducing the authorization for an activity that was already assumed to be ending or receiving reduced appropriations (such as the one-time purchase of equipment or census spending in the years following the census) would not qualify as an offset under this protocol.

(D) Special Rules:

(1) With respect to the Defense Authorization Act, any authorization of appropriations beyond the level specified for the defense function for the relevant fiscal year in the most recent Budget Resolution shall be offset consistent with the other provisions of this protocol.

(2) A provision of a bill or joint resolution that directs, requires, or permits an agency to undertake a particular activity that can reasonably be supported from the agency’s regular administrative budget and for which the bill or joint resolution does not provide a specific authorization of appropriations for such activity, shall be considered as in compliance with this protocol.

(3) A provision of a bill or joint resolution that expands the permissible use of existing funding, but does not itself require or authorize an increase in discretionary appropriations shall be considered as in compliance with this protocol.

(4) A bill or joint resolution that extends an authorization without increasing the amount authorized shall be considered in compliance with this protocol.

(5) A bill or joint resolution that provides an authorization at the level most recently appropriated shall be considered in compliance with this protocol.

### **Sunset and “Cut-Go” Requirements for Statutorily Required Reports:**

Purpose: This protocol is designed to prevent the proliferation of legally required reports when such reports are no longer relevant or necessary. Such proliferation wastes taxpayer dollars, and also distracts agencies from more pressing matters.

Protocol: Sunset: Any bill or joint resolution that imposes a new reporting requirement on an agency or entity (including a Legislative Branch agency such as CBO or GAO) shall include a sunset for such report that coincides with the sunset for the larger agency, office or program (generally no longer than seven years). This requirement shall not apply to one-time reports,

annual financial statements, necessary performance reports for agencies or authorities that are not themselves subject to a sunset requirement, or other similar reports.

(A) “Cut-Go:” Any bill or joint resolution that imposes a new reporting requirement on an agency or entity shall strive to include the elimination of an existing report. The Majority Leader may take into account compliance with this paragraph when considering whether to schedule a measure for consideration by the House.

(B) Inventory: The Majority Leader shall provide to each Committee and to any Member upon request, an accurate as possible list of currently required reports.

(C) Sunset Inventory: The Majority Leader shall work with the Office of the Clerk to maintain a list of enacted reports with sunset dates.

### **AVAILABILITY OF MEASURES CONSIDERED UNDER SUSPENSION OF THE RULES:**

Purpose: This protocol is designed to ensure that the requirement that bills be publicly available for three days prior to their consideration applies to bills considered under suspension of the rules.

Protocol: Measures proposed to be considered through a motion to suspend the rules, shall be publicly available in an electronic format for three days prior to their consideration. For purposes of determining public availability, the measure must be available for three days in the substantive form in which it is proposed to be passed or adopted. At the time the House considers the motion to suspend the rules, only revisions that are purely technical or grammatical in nature are permitted to the text that was made publicly available in accordance with this protocol.

The Majority Leader may waive this protocol in limited, exigent circumstances where he determines that significant harm will be caused by the delay in the consideration of the measure. In such instances, the text of the proposed measure shall be made publicly available as soon as practicable.

### **MEMBER PRESENCE DURING CONSIDERATION OF SPONSORED MEASURES:**

Purpose: This protocol ensures that legislation is not debated on the House floor without the authoring Member present. It is designed to address occurrences in the past where legislation – especially measures addressing a specific parochial issue – has been debated on the House floor by committee managers, rather than the Member who originally proposed the legislation. Most commonly, these instances have applied to resolutions considered under suspension of the rules, but they have also applied to substantive legislation that has been assigned to a specific Member.

Protocol: In order for legislation to be considered on the House floor, the original sponsor of the specific bill or resolution must be present during – and participate in – debate on the measure. This protocol does not apply to privileged measures reported by the Rules Committee or to legislation introduced by committee chairmen within their committee’s jurisdiction.

### **COMMEMORATIVES:**

Purpose: This protocol provides further guidance for the adherence of Rule 28 of the Rules of the House Republican Conference which provides that:

The Republican Leader shall not schedule, or request to have scheduled, any bill or resolution for consideration under suspension of the Rules which...expresses appreciation, commends, congratulates, celebrates, recognizes the accomplishments of, or celebrates the anniversary of, an entity, event, group, individual, institution, team or government program; or acknowledges or recognizes a period of time for such purposes...

Protocol: A resolution of bereavement, or condemnation, or which calls on others (such as a foreign government) to take a particular action, but which does not otherwise violate the provisions of Rule 28 is eligible to be scheduled under suspension of the Rules.

### **CONSTITUTIONAL AUTHORITY STATEMENTS:**

Purpose: This protocol is designed to encourage meaningful compliance with the requirements of clause 7(c) of Rule XII.

Protocol: At the beginning of each Congress, the Majority Leader shall circulate to all Members templates designed to ensure meaningful compliance with the requirement that constitutional authority statements to cite “as specifically as practicable the power or powers granted to Congress in the Constitution to enact the bill or resolution.” The Majority Leader may take into consideration whether a sponsor of a measure has meaningfully complied with House Rules, including if the statement cites a specific Article, Section, and Clause of the Constitution that refers to a specific legislative power of Congress, when deciding whether to schedule a measure for consideration by the House.

### **DEBATE ON CONSTITUTIONALITY OF PROPOSED MEASURES:**

Purpose: Clause 7(c) of rule XII requires that sponsors of bills or joint resolutions provide a statement citing the powers under the Constitution under which the bill or joint resolution is to be enacted. The purpose of this protocol is to provide an avenue for Members seeking to have a separate debate on the constitutionality of a proposed measure.

Protocol: If not fewer than 25 members sign a letter to the Chair of the Committee on Rules requesting a separate period of debate to discuss the constitutionality of a measure considered under a rule, the Chair shall include such a period of separate debate, not to exceed 20 minutes, evenly divided and controlled between a Member specified in the letter and a Member defending the committee position. The rule will not provide for a separate vote on a question of the sufficiency of any constitutional authority statement.

### **AUTHORIZING THE FILING OF AN AMICUS BRIEF IN EXTRAORDINARY MATTERS**

Purpose: This protocol provides further guidance on the scheduling of House Resolutions authorizing or directing the Speaker to file an amicus brief on behalf of the House in extraordinary matters.

Protocol: The Republican Leader shall not schedule, or request to have scheduled, a resolution authorizing or directing the Speaker to file an amicus brief on behalf of the House unless the case for which the brief is proposed: (i) is pending before, or under consideration by, the Supreme Court of the United States, (ii) involves Executive Branch actions that intrude upon, or threaten to intrude upon, the powers, functions, and/or duties entrusted to Congress by Article I of the Constitution, as identified by the questions presented by the Supreme Court of the United States and as determined by the House Office of General Counsel; and (iii) does not exclusively involve issues of statutory interpretation, as determined by the House Office of General Counsel.