

By: Representative Warren

To: Rules

HOUSE RESOLUTION NO. 39

1 A RESOLUTION TO AMEND THE 2004-2008 RULES OF THE HOUSE; TO
2 AMEND RULE 11A PERTAINING TO THE HOUSE MANAGEMENT COMMITTEE TO
3 MAKE CERTAIN CLARIFYING AND TECHNICAL CHANGES; TO AMEND RULE 15 TO
4 PROVIDE THAT THE MINIMUM AGE OF A HOUSE PAGE IS 13 YEARS OF AGE;
5 TO AMEND RULES 16 AND 17 TO CLARIFY THE DUTIES OF THE SERGEANT AT
6 ARMS; TO AMEND RULE 60 TO INCREASE THE MEMBERSHIP OF CERTAIN
7 STANDING COMMITTEES; TO AMEND RULE 95 TO REVISE THE VOTE
8 REQUIREMENTS PERTAINING TO THE WITHDRAWAL OF A BILL FROM
9 COMMITTEE; TO CREATE NEW RULE 104B TO INCORPORATE INTO THE RULES
10 THE EXISTING PRECEDENTS AND PROCEDURES TO BE FOLLOWED IN AN
11 ELECTION CONTEST INVOLVING A MEMBER OF THE HOUSE.

12 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE
13 OF MISSISSIPPI, That Rule 11A of the Rules of the House is amended
14 as follows:

15 11A. (1) There is * * * created the House of
16 Representatives Management Committee (hereinafter Management
17 Committee) to be composed of the Speaker Pro Tempore, who shall
18 serve as ex officio chairman, having full powers of discussion and
19 voting, the Speaker, who shall be ex officio a voting member
20 thereof, and ten (10) other representatives, two (2) from each
21 congressional district of Mississippi as constituted on January 1,
22 1996, to be elected by caucus of the representatives from each
23 such district. The place of residence of a representative shall
24 determine the congressional district caucus in which the
25 representative shall participate and from which the representative
26 may hold membership on the Management Committee. The members of
27 the Management Committee shall select, from among its members, a
28 vice chairman and secretary.

29 The members of the Management Committee elected in the year
30 1987 shall be elected within ten (10) calendar days following the
31 adoption of this rule. The members of the Management Committee

thereafter shall be elected during the first calendar week of each regular session having one hundred twenty-five (125) calendar days. Members shall serve a term of four (4) years, and each member's term shall end on the date on which the member's term in the House of Representatives expires.

(2) No member of the Management Committee shall serve concurrently as a member of the House Rules Committee, except that the Speaker and the Speaker Pro Tempore shall serve on the Rules Committee as provided in Rule 11.

(3) Any vacancy of a congressional district position occurring during a regular annual legislative session shall be filled by election by the appropriate caucus within ten (10) calendar days after the vacancy occurs. Any vacancy occurring between regular annual legislative sessions shall be filled by election by the appropriate caucus during the first five (5) calendar days of the next succeeding regular or special session of the Legislature.

(4) The Management Committee shall meet at such times as are necessary for the proper exercise of its functions, and shall have the authority to adopt policies, rules and regulations, not inconsistent with these rules, as it deems necessary for the efficient operation of the committee.

(5) Action by a majority vote of the Management Committee shall control and be conclusive on any matter properly concerning the House of Representatives.

(6) The committee shall function on a year-round basis and when the Legislature is not in session, members of the committee shall be compensated as provided in Section 25-3-69, Mississippi Code of 1972, for each day spent in actual discharge of their duties and shall be reimbursed for mileage and actual expenses incurred in the performance of their duties. No committee member may incur per diem, travel or other expenses

64 unless authorized by vote at a meeting of the committee, which
65 action shall be recorded in the official minutes of the committee.

66 (7) The Management Committee * * *, in addition to its
67 other responsibilities, shall perform the following duties:

68 (a) Conduct the business affairs of the House of
69 Representatives;

70 (b) Investigate the feasibility of new and
71 additional staff agencies and make recommendations to the House of
72 Representatives;

73 (c) Assign such space in the Capitol or in such
74 other buildings or parts thereof as may be reserved for the House
75 of Representatives and have complete control, authority and
76 jurisdiction over such rooms, chambers, offices and other areas.
77 Any assignment of space shall be subject to change by the
78 Management Committee. No other branch of the government, or a
79 department or agency thereof, shall use any room, chamber, office
80 or other area without specific written authorization from the
81 Management Committee. The Management Committee is hereby
82 authorized to delegate its powers with regard to any such room,
83 chamber, office or other area in connection with the maintenance,
84 repairing, construction, reconstruction and refurbishing thereof
85 in such a manner as it deems advisable;

86 (d) Staff interim committees;

87 (e) Staff standing committees; and

88 (f) Continually assess ways and means to improve
89 the organization, procedures, facilities and working conditions of
90 the House of Representatives.

91 (8) The Management Committee shall have the authority
92 to designate a director, who may also serve as the Clerk or as the
93 Director of the House Legislative Services Office, and who shall
94 carry out the directives of the Management Committee and shall
95 perform any and all duties of the Management Committee delegated
96 to him. The Management Committee may employ other personnel as

97 may be necessary to discharge its duties and responsibilities.
98 All such personnel shall serve at the pleasure of the Management
99 Committee.

100 The Management Committee shall also have the authority to fix
101 the salaries of all personnel employed by the House of
102 Representatives.

103 All employees of the House of Representatives required to
104 travel in the performance of official duties shall be reimbursed
105 for actual subsistence and travel expenses incurred by them while
106 on official business as provided by law, provided such travel has
107 prior approval of the Management Committee or the director under
108 such authority as may be granted to him by the Management
109 Committee.

110 (9) In providing for the staffing of the Speaker's
111 staff and of committees, the Management Committee shall have the
112 responsibility for determining the necessity of any staff
113 positions requested by the Speaker or the chairman of any
114 committee, as the case may be. The persons to be employed for the
115 positions that are approved by the Management Committee shall be
116 hired by the committee with approval of the Speaker * * *. The
117 Speaker * * * shall recommend the compensation to be paid to the
118 Speaker's staff * * * and the * * * committee shall consider these
119 recommendations when fixing those salaries.

120 (10) The Management Committee, upon request of the
121 chairman of any standing committee of the House of
122 Representatives, may authorize expenses, to include per diem,
123 mileage, meals and lodging, to be paid for members attending the
124 meeting of any standing committee or subcommittees thereof during
125 the period in which the Legislature is not in session, which shall
126 not exceed the compensation provided for members of the Management
127 Committee provided for in subsection (6) of this rule. The
128 Management Committee shall adopt rules and regulations concerning
129 time, places and number of meetings that may be held for which

members will be compensated, such rules and regulations to require prior approval of meetings in order for members to be compensated.

(11) The Management Committee shall have general administrative powers and the responsibility for the proper operation of the House Legislative Services Office.

(a) The director, subject to approval of the Management Committee, shall employ full-time professional, technical, clerical and stenographic assistance as may be necessary to carry out the provisions of this subsection.

* * *

(b) The House Legislative Services Office shall assist the House of Representatives, its committees, commissions and individual members of the House of Representatives as follows in:

(i) Bill research;
(ii) Bill drafting;
(iii) Bill analysis;
(iv) Preparation and writing of standing and interim committee reports; and

(v) Such other duties as prescribed by the Management Committee.

(c) The House Legislative Services Office must be authorized, in writing, by a House member to prepare a draft before it undertakes the preparation thereof.

(d) No employee of the House Legislative Services Office shall:

(i) Reveal to any person outside his office the contents or nature of any request for services made by any member of the House except with the written consent of the person making such request;

(ii) Urge, oppose or attempt to influence any legislation;

162 (iii) Give legal advice on any subject to any
163 person, firm or corporation, except members of the House; nor

164 (iv) During his employment be associated or
165 interested in the private practice of law in any matter without
166 prior approval of the Management Committee.

167 A violation of any provision of this section by an employee
168 shall be sufficient cause for his or her immediate dismissal.
169 However, this paragraph shall not be a limitation on the authority
170 of the Management Committee to dismiss or change its employees.

171 (12) The Department of Finance and Administration shall
172 cooperate with the Management Committee in making space available
173 either in the Capitol or in any other buildings easily accessible
174 to members of the Legislature.

175 (13) The funds necessary to carry out the provisions of
176 this rule shall be paid from the funds appropriated to the House
177 of Representatives Contingent Fund made by the Legislature for the
178 purposes herein set out.

179 (14) At such time as there may be designated or created
180 in the Senate of the State of Mississippi a * * * committee with
181 like duties and responsibilities of the House Management
182 Committee, the House Management Committee is authorized to meet
183 jointly with such corresponding Senate * * * committee in order to
184 more effectively carry out the provisions of this rule.

185 BE IT FURTHER RESOLVED, That Rule 15 of the Rules of the
186 House is amended as follows:

187 15. Pages shall be appointed to serve for one (1) week at a
188 time each, under the control and direction of the Clerk of the
189 House. Only persons over the age of thirteen (13) years shall be
190 eligible to serve as pages.

191 BE IT FURTHER RESOLVED, That Rules 16 and 17 of the Rules of
192 the House are amended as follows:

193 16. The Sergeant at Arms of the House of Representatives
194 shall have general supervision, under the direction of the Speaker

195 of the House, in maintaining the decorum and security of the
196 House. He shall attend the sittings of the House, preserve order,
197 execute its commands and all processes issued by its authority or
198 by a House committee's authority, and * * * have control of the
199 assistants to the Sergeant at Arms. He shall clear the House of
200 all visitors one (1) hour before each session convenes and not
201 allow visitors on the Floor of the House for ten (10) minutes
202 after a session has recessed or adjourned. He shall see that the
203 Hall of the House and the Committee Rooms and the Room of the
204 Speaker of the House, the anterooms, lobbies and galleries thereof
205 are secure during the sitting of the House, and that all necessary
206 conveniences are supplied to the members, officers and
207 committees. * * *

208 17. Each assistant to the Sergeant at Arms of the House of
209 Representatives shall be known as an Assistant Sergeant at Arms,
210 and shall perform such * * * duties as may be required of him by
211 the Sergeant at Arms.

212 BE IT FURTHER RESOLVED, That Rule 60 of the Rules of the
213 House is amended as follows:

214 60. (1) The following shall be the standing committees of
215 the House:

- 216 (a) Rules Committee, as provided for in Rule 11 of
217 these rules;
- 218 (b) Management Committee, as provided for in Rule
219 11A of these rules;
- 220 (c) Ethics Committee, as provided for in Rule 63A
221 of these rules;

222	(d) Committee	Number of Members
223	Agriculture	33
224	Apportionment and Elections	17
225	Appropriations	33
226	<u>Banking and Financial Services</u>	15
227	Conservation and Water Resources	29

228	Constitution	15
229	Corrections	17
230	County Affairs	19
231	Education	31
232	Fees and Salaries of Public Officers	15
233	Forestry	11
234	Gaming	15
235	Insurance	17
236	Interstate Cooperation	7
237	Judiciary	50
238	Juvenile Justice	25
239	Labor	11
240	Local and Private Legislation	7
241	Marine Resources	11
242	Medicaid	<u>19</u>
243	Military Affairs	11
244	Municipalities	17
245	Oil, Gas and Other Minerals	17
246	Ports, Harbors and Airports	11
247	Public Health and Human Services	29
248	Public Property	19
249	Public Utilities	17
250	Tourism	<u>17</u>
251	Transportation	29
252	Universities and Colleges	<u>27</u>
253	Ways and Means	33
254	Wildlife, Fisheries and Parks	15

255 (2) No member shall serve on both the Committee on Ways
256 and Means and the Committee on Appropriations. Each member may
257 serve on at least four (4) committees listed in this rule.

258 (3) The Committee on Appropriations and the Committee
259 on Ways and Means each shall consist of thirty-three (33) members
260 appointed by the Speaker, six (6) members from each congressional

district as constituted on January 1, 1996, and three (3) members from the state at large. Appointments from the congressional districts shall be made on the basis of seniority. For the purposes of this rule, "seniority" shall mean length of service, continuous or interrupted, in either the House of Representatives or the Senate. However, seniority among members having the same length of service shall be determined as follows: first, continuous, uninterrupted service in the House; second, continuous, uninterrupted service in the House and Senate; third, interrupted service in the House; and fourth, interrupted service in the House and Senate.

(4) In order for a member to be eligible for the rights accorded by this subsection (4), a member shall submit a list of his or her committee preferences, setting forth at least ten (10) committees in order of preference with the most preferred being first on the list, to the Clerk of the House by 5:00 p.m. on the third calendar day of the first legislative session immediately following the year in which the members of the Legislature are elected. With regard to committee appointments, the following shall be followed by the Speaker of the House in making such appointments:

(a) Each member of the House who has served in the House for less than four (4) years, whether such service be continuous or interrupted, and who is not appointed to be a member of the Committee on Appropriations or the Committee on Ways and Means shall, as a matter of right, be appointed to serve on at least two (2) of the first seven (7) committees on such list, not to include Appropriations and Ways and Means; and

(b) Each member of the House who has served in the House for four (4) years or more, whether such service be continuous or interrupted, and who is not appointed to be a member of the Committee on Appropriations or the Committee on Ways and

Means shall, as a matter of right, be appointed to serve on at least three (3) of the first seven (7) committees on such list.

(5) In making committee appointments, the Speaker shall give consideration to the preferences as expressed by the members on their lists as provided in subsection (4) of this rule, and to the seniority, abilities, and geographic location of the members.

BE IT FURTHER RESOLVED, That Rule 95 of the Rules of the House is amended as follows:

95. (1) Except as otherwise provided in subsections (2), (3) and (4) of this rule, every House bill, resolution or measure referred to any committee, and not reported therefrom with a recommendation by the twenty-seventh day of a ninety-day session and by the sixty-second day of a one-hundred-twenty-five-day session, and every Senate bill, resolution or measure referred to any committee, and not reported therefrom by the fifty-fifth day of a ninety-day session and by the ninetieth day of a one-hundred-twenty-five-day session, may be withdrawn from the committee on a motion made in writing, which * * * motion must be read by the clerk immediately upon its introduction, setting forth the reasons why the bill should be withdrawn from the committee, by a vote of two-thirds (2/3) of the members present and voting. It may then be taken up and considered by the Committee of the Whole House in accordance with the procedure set forth in House Rule 56, or, by a two-thirds (2/3) vote of those present and voting it may be recommitted to a standing committee. * * *

During extraordinary or special sessions of the Legislature, any bill, including an appropriation or revenue bill, may be withdrawn from committee after three (3) days from the date of reference. A motion to withdraw a bill from a committee shall not be voted upon by the House on the day which the motion is made, except upon suspension of the rules by a two-thirds (2/3) vote of those present and voting.

(2) Any House appropriation bill or revenue bill referred to the House Appropriations Committee or the House Ways and Means Committee and not reported therefrom with a recommendation within ten (10) legislative days after referral may be withdrawn from the committee in accordance with the procedure set forth in subsection (1) of this rule if the motion for withdrawal is made by the fiftieth day of a ninety-day session and by the eighty-fifth day of a one-hundred-twenty-five-day session.

(3) Any Senate appropriation bill or revenue bill referred to the House Appropriations Committee or the House Ways and Means Committee and not reported therefrom with a recommendation within ten (10) legislative days after referral may be withdrawn from the committee in accordance with the procedure set forth in subsection (1) of this rule if the motion for withdrawal is made by the seventieth day of a ninety-day session and by the one-hundred-fifth day of a one-hundred-twenty-five-day session.

(4) For the purposes of this rule, the term 'revenue bill' shall include only those bills whose primary purpose is to increase or decrease taxes or to authorize the issuance of bonds or the borrowing of money. Bills which are primarily for regulatory purposes which have revenue provisions included shall not be considered as revenue bills for the purposes of this rule.

BE IT FURTHER RESOLVED, That the Rules of the House are amended by creating a new Rule 104B to read as follows:

104B. The procedure for handling the contest of the election, other than a primary election, of a member of the Mississippi House of Representatives shall be as follows:

(1) Anyone desiring to contest the election, other than a primary election, of a member returned as elected to the Mississippi House of Representatives shall file with the Clerk of the House of Representatives, within thirty (30) days after a regular general election or ten (10) days after a special election

358 to fill a vacancy, a sworn petition stating particularly the
359 grounds upon which the election is contested. A copy of the
360 petition shall be served on the member whose election is being
361 contested. Any allegations concerning the election, or any
362 grounds for the contest contained in the petition, shall be stated
363 and averred in the same manner in which circumstances constituting
364 fraud are required to be stated with particularity when pleading
365 special matters under the Mississippi Rules of Civil Procedure.

366 (2) Upon the timely filing of the petition, the Speaker
367 of the House of Representatives shall appoint a special committee
368 to resolve the election contest. Any special committee appointed
369 by the Speaker under this subsection (2) shall be composed of one
370 (1) member of the House of Representatives from each congressional
371 district as constituted on January 1, 1996. In making the
372 committee appointments, the Speaker shall give consideration to
373 the seniority, abilities and geographic location of the members.
374 Within fifteen (15) days after the Speaker's appointment of the
375 special committee, the committee shall meet to organize and review
376 the petition.

377 (3) (a) Either party to such an election contest may
378 obtain discovery regarding any matter, not privileged, which is
379 relevant to the particular grounds stated in the petition or any
380 response thereto, and he may use any method of discovery that is
381 authorized under the Mississippi Rules of Civil Procedure.

382 (b) Either party shall have the right of full
383 examination of ballot boxes in accordance with Section 23-15-911,
384 Mississippi Code of 1972.

385 (c) All forms of discovery shall be completed
386 within twenty (20) days before the convening of a regular session
387 on the Tuesday after the first Monday in January, except that in
388 the case of a special election to fill a vacancy, discovery shall
389 be completed within thirty (30) days after the special election.

390 (d) The special committee shall have exclusive
391 jurisdiction over the determination of whether the filing of the
392 petition and discovery related thereto have been timely made. If
393 the filing of the petition or the discovery related thereto is not
394 made timely, the election contest shall be void, and the contest
395 and any rights related thereto shall expire by operation of law.

396 (4) On the first day of the regular session next
397 occurring after the election being contested, the person who was
398 certified by the appropriate election officials as the duly
399 elected member of the Mississippi House of Representatives from
400 the district in question shall be administered the oath of office
401 by the Secretary of State as required by the Constitution, along
402 with all other members present, and he shall not be requested to
403 stand aside if he has been so certified. In the case of a special
404 election contest, the oath shall be administered by the Speaker as
405 in the case of administering the oath after any special election
406 in which no contest has been filed. The seating and swearing in
407 of a member who has been certified by the appropriate election
408 officials before the special committee has concluded its
409 deliberations shall be conditional and not permanent. The
410 conditional seating and swearing in of the member shall vest in
411 the member all the rights, privileges, and emoluments of the
412 office, but without prejudice to the contest filed by the
413 petitioner.

414 (5) The special committee appointed by the Speaker
415 shall meet on the first day of the regular session next occurring
416 after the election being contested, except that in the case of a
417 special election to fill a vacancy, the special committee shall
418 meet within five (5) days of the completion of discovery. The
419 work of the special committee shall be a matter of the highest
420 priority for the House, and any conflicts in scheduling meetings
421 of the committee shall be resolved in favor of expediting the
422 committee's work. The special committee shall have the power to

investigate all facts concerning the election or qualifications of any member or petitioner, but shall not place itself in the position of investigating matters not alleged in the petition or any response thereto. It also shall have the power to issue subpoenas and compel the attendance of witnesses and the production of such documents or papers as may be required. The special committee shall have the authority to enforce any subpoena issued by the committee and to enforce compliance with the time limitations set forth in this rule, with the assistance of the State Attorney General or his designee.

(6) After the committee concludes its deliberations, it shall report a resolution recommending one (1) of the following courses of action to the House: (a) to seat permanently the House member who was certified and sworn in under subsection (4) of this rule, failure of which shall vacate the seat for the House district in question held by that person; (b) to seat permanently the petitioner in the election contest, passage of which will vacate the seat for that House district and the petitioner shall be sworn in for that seat; or (c) to declare the office of representative for that House district as vacant. The House shall consider the recommendation of the committee, and it shall adopt one (1) of the courses of action specified in this subsection (6), which must be adopted by a majority vote of House members present and voting.

(7) For purposes of this rule, "day" means a calendar day and includes any legal holiday.

(8) Section 55, Mississippi Constitution of 1890, which requires a two-thirds (2/3) vote of the members present to expel a seated member, shall not apply to any votes taken with regard to an election contest of a member of the House of Representatives.

(9) If the House determines that the person conditionally sworn in under subsection (4) of this rule is not qualified as a member of the Mississippi House of Representatives,

456 any vote cast in the interim shall stand and any compensation and
457 expenses paid shall be retained by that person. If the petitioner
458 prevails on the merits of his contest, he shall receive the
459 regular compensation and expenses of a member of the House,
460 retroactive to the beginning of the session, or in the case of a
461 special election, retroactive to the date upon which the House
462 member conditionally sworn in was seated.

463 (10) Under the inherent authority of the House to
464 create procedures and rules for the governing of its internal
465 affairs, if any provision of this rule conflicts with any
466 provision of Sections 23-15-955 and 23-15-957, Mississippi Code of
467 1972, the provisions of this rule shall prevail.