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House Committee Markups: Manual of Procedures and Procedural Strategies

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Summary

A principal responsibility of House committees is to conduct markups—to select legislation to consider, to debate it and vote on amendments to it (to mark up), and to report recommendations on passage to the House. This manual examines procedures and strategy related to committee markups and provides sample procedural scripts.

A committee faces many decisions when it considers a policy matter in a markup. It must select what legislation to mark up; decide whether to mark up in committee only or in both subcommittee and committee; consider the effect of referral on the markup; choose how to report to the House; and take into account congressional and Administration sentiments. With policy and political considerations in mind, the committee plans its procedural strategy.

The first element of a markup strategy is selection of a markup vehicle. A committee might mark up a measure as introduced, a version of the measure previously marked up in subcommittee, a draft prepared before, after, or without subcommittee markup, or an amendment in the nature of a substitute. Procedural and political consequences attach to each markup vehicle. Two parts of the manual deal with this element: Procedural Strategy and the Choice of a Markup Vehicle, and Beginning a Markup.

The second element of a markup strategy is conduct of the amendment process. A committee may mark up a measure by section or by paragraph or by another subdivision, such as title; open it to amendment at any point or use an amendment roster; or mark up an amendment in the nature of a substitute. Specific procedural and political consequences attach to each choice. One part of the manual deals with this element: Reading a Measure for Amendment.

The third element of a markup strategy is the decision of what to report. If a committee marks up legislation as introduced, it may report that with recommended amendments. If a committee marks up a draft or an amendment in the nature of a substitute, it must convert that vehicle into legislation that can be reported. A committee may also choose to report a "clean" measure. Two parts of the manual deal with this element: Reporting a Measure, and Committee Reports.

The final element of a markup strategy cuts through the other elements—anticipating the motions and requests that the majority and minority might make at each stage of the markup. Four parts of the manual deal with this element: Parliamentary Inquiries; Points of Order; Motions, Requests, and Demands; and Voting.

Six parts of this manual supplement these elements of markup strategy by providing background and context: Introduction to House Committee Markup Procedures, Committee Rules, Procedural Restrictions in Law on Certain Markups, Referral of Legislation in the House, Considerations Prior to a Markup, and Role of Committee and Personal Staff.

Two parts of the manual deal with Options for House Consideration and Considerations in a Two-House Strategy. Although House floor consideration follows committee action, and Senate action may precede or follow House committee action, plans for a markup must anticipate the larger arenas in which reported legislation will be considered. This context is examined in these two parts.

An Overview of Manual section explains the relationship between the elements and the parts of the manual, and includes a subsection on How To Read or Use This Manual.

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> On the theory that a government of laws is preferable to a government of men, the House has repeatedly recognized the importance of following its precedents and obeying its well-established procedural rules.… The House adheres to settled rulings, and will not lightly disturb procedures that have been established by prior decision of the Chair.[1]
>
> House committees are required to follow the procedures prescribed by the rules of the House 'so far as applicable.' …They are also bound by those provisions of Jefferson's Manual that are consistent with the rules of the House…. Finally, they are bound by their written rules which are adopted by each standing committee under clause 2(a) of rule XI.[2]

1. Overview of Manual

One of the principal responsibilities of House committees is to conduct markups—to select legislation for committee consideration, debate and vote on amendments to it, write a report advocating for the committee's decisions on it, and report the committee's recommendations to the House. Committees also mark up matters such as subpoenas and committee rules. This manual examines procedures and procedural strategy related to House committee markups and relevant to all committee members. It also discusses the roles of a chair, a ranking minority member, and committee members in the conduct of markups. Sample scripts that illustrate markup procedures, motions, and requests appear as part of the text and in appendices.

The first element of a markup strategy is a chair's selection of the markup vehicle—an introduced measure, a draft, a subcommittee-approved measure, or an amendment in the nature of a substitute. Specific procedural consequences attach to each form of markup vehicle. With the markup vehicle chosen, a chair schedules and convenes a markup meeting. This element of markup strategy is analyzed in these parts and appendices:

- "7. Procedural Strategy and the Choice of a Markup Vehicle"
- "8. Beginning a Markup"
- **Appendix C**. Sample Script for Opening Statements

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[1] Charles W. Johnson, John V. Sullivan, and Thomas J. Wickham Jr., *House Practice: A Guide to the Rules Precedents, and Procedures of the House*, 115th Cong., 1st sess. (Washington, DC: GPO, 2017), ch. 50, § 2, p. 853. (Hereinafter *House Practice*.) Available online from GPO at https://www.gpo.gov/fdsys/pkg/GPO-HPRACTICE-115/pdf/GPO-HPRACTICE-115.pdf.

The preface to *House Practice* describes this work as a "summary review of selected precedents" and "not an exhaustive survey of all applicable rulings" to volumes containing the rules and precedents of the House. It is contained in single volume, arranged alphabetically into chapters named for principal procedural concepts, beginning with "Adjournment" and ending with "Withdrawal." An index aids the user in finding specific explications of procedures. *House Practice*, pp. iii-iv.

At footnote 6, see the description of the *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, One Hundred Fifteenth Congress,* which includes parliamentarian's notes on nearly every section of the House rules. Many footnotes to the *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, One Hundred Fifteenth Congress,* throughout this report are references to specific parliamentarian's notes.

Both *House Practice* and *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, One Hundred Fifteenth Congress* contain extensive references to the precedent volumes of the House of Representatives—*Deschler's Precedents, Cannon's Precedents,* and *Hinds' Precedents*—which are available online through the GPO Access website at https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=GPO&browsePath=Precedents+of+the+U.S.+House+of+Representatives&isCollapsed=false&leafLevelBrowse=false&ycord=0.

[2] Ibid., ch. 11, § 15, p. 275.

- **Appendix D**. Sample Scripts for Calling Up and Reading a Measure
- **Appendix E**. Sample Scripts When Motions Are Made as a Markup Begins

The second element of a markup strategy is conduct of the amendment process. Again, a committee has choices, depending on how the markup vehicle is drafted—to mark up a measure by section or paragraph; by another unit, such as title or chapter; with the measure open to amendment at any point or with an amendment roster; or by laying down an amendment in the nature of a substitute. Specific procedural consequences also attach to each of these choices. This element of markup strategy is analyzed in these parts and appendices:

- "9. Reading a Measure for Amendment"
- **Appendix F**. Sample Scripts for Options for Reading a Measure for Amendment
- **Appendix G**. Sample Script for Offering an Amendment in the Nature of a Substitute
- **Appendix H**. Sample Scripts for Offering an Amendment and Disposing of a Point of Order
- **Appendix I**. Sample Scripts for Selected Motions and Requests in the Amendment Process
- **Appendix J**. Sample Scripts for Motion to Close Debate; Parliamentary Inquiry; and Point of Order of Absence of Quorum
- **Appendix K**. Sample Scripts for Voting on Amendments
- **Appendix L**. Sample Script for Parliamentary Inquiry on Voting Order on Amendments, with Votes on Amendments to an Amendment in the Nature of a Substitute Made Base Text
- **Appendix M**. Sample Scripts for Division of a Question: Amendments and En Bloc Amendments
- **Appendix N**. Sample Scripts for Postponing a Recorded Vote; Calling a Recess

The third element of a markup strategy is the decision of what to report and how to report it. If a committee marks up legislation as introduced, it may report the measure with recommended amendments. If a committee marks up a draft, it must convert that draft into legislation that can be reported, for example, by amending a measure referred to the committee and reporting that measure as amended. Alternately, if a committee marks up a draft, the chair or another committee member could introduce the draft, as amended, and the committee could report the newly introduced bill. If a committee marks up an amendment in the nature of a substitute, it normally amends the measure to which the amendment was offered. A committee might also choose to report a "clean" bill or resolution. This element of markup strategy is analyzed in these parts and appendices:

- "14. Reporting a Measure"
- "15. Committee Reports"
- "16. Options for House Floor Consideration"
- "17. Considerations in a Two-House Strategy"
- **Appendix O**. Sample Script for Subcommittee Reporting.
- **Appendix P**. Sample Script for Reporting a Measure with or without Amendments, or with an Amendment in the Nature of a Substitute Considered as Base Text

- **Appendix Q**. Sample Script for Reporting a Measure with an Amendment in the Nature of a Substitute, Not Base Text
- **Appendix R**. Sample Script for Reporting a Clean Bill or Resolution
- **Appendix S**. Consideration and Reporting of a Measure by Unanimous Consent

The final element of a markup strategy cuts through the other elements—the motions and requests that members might make at each stage of the markup, acting for the majority or minority or in behalf of a policy perspective or individual interest. This element of markup strategy is analyzed in these parts and appendices:

- "10. Parliamentary Inquiries"
- "11. Points of Order"
- "12. Motions"
- "13. Voting"
- **Appendix E**. Sample Scripts When Motions Are Made as a Markup Begins
- **Appendix H**. Sample Scripts for Offering an Amendment and Disposing of a Point of Order
- **Appendix I**. Sample Scripts for Selected Motions and Requests in the Amendment Process
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- **Appendix M**. Sample Scripts for Division of a Question: Amendments and En Bloc Amendments
- **Appendix N**. Sample Scripts for Postponing a Recorded Vote; Calling a Recess

Several parts and appendices of this manual supplement these elements of markup strategy by providing background, context, and other information. These parts and appendices are as follows:

- "2. Introduction to House Committee Markup Procedures"
- "3. Committee Rules"
- "4. Procedural Restrictions in Law on Certain Markups"
- "5. Referral of Legislation in the House"
- "6. Considerations Prior to a Markup"
- "16. Options for House Floor Consideration"
- "17. Considerations in a Two-House Strategy"
- "18. Role of Committee and Personal Staff"
- **Appendix A**. Glossary of Selected Markup Terms
- **Appendix B**. House Committee Markups: Administrative Preparation

This manual organizes and analyzes the procedures, practices, and procedural strategy of House committees and subcommittees in conducting markups of legislation or other matters in a manner that may be used by a committee chair, committee ranking minority member, majority members of a committee, minority members of a committee, or members with a policy-majority or policy-minority viewpoint on a committee. The manual explains procedures, practices, and strategy, and includes sample excerpts of dialogue related to commonly used procedures, motions, and

requests. Longer sample scripts of portions of markups appear in appendices. A checklist for staff preparing for a markup and a glossary of selected markup terms appear in separate appendices.

The manual contains two additional parts: "16. Options for House Floor Consideration" and "17. Considerations in a Two-House Strategy." These parts of the manual examine some of the procedural options for House floor consideration and explain some of the political and procedural considerations for House committees anticipating Senate action on a related measure. A chair, ranking minority member, and other committee members anticipate floor action and agreement between the houses in designing their markup procedural strategy, as examined in "6. Considerations Prior to a Markup."

1.1. Resources: Experts and CRS Reports

This manual seeks to cover the range of frequently encountered markup procedures and considerations in markup procedural strategy. In using this manual in conjunction with a specific markup, the reader will need to first take into account that markup's policy and political considerations, and then study procedural options relevant to those considerations. Congressional Research Service (CRS) specialists and analysts are available to committees, committee members, and committee and personal staff to assist in understanding the parliamentary procedures and strategy analyzed in this manual and in applying them to specific committees and parliamentary circumstances.[3]

In general, procedures applicable to committees are also applicable to subcommittees. Sometimes, subcommittees as well as committees are mentioned to reinforce this fact. Where a procedure is not applicable to a subcommittee, such as reporting a measure to the House, a distinction is made.

Throughout the manual, the words "member" and "members" normally appear without an initial capital because the reference is to a committee member or members. If reference is made to a "Member" or "Members" of the House, the word is capitalized.

Related CRS products that contain information and analyses that might also be of interest to the reader include—

- CRS Report RL34679, *House Committee Chairs: Considerations, Decisions, and Actions as One Congress Ends and a New Congress Begins*, by Judy Schneider and Michael L. Koempel;
- CRS Report 98-151, *House Committees: Categories and Rules for Committee Assignments*, by Judy Schneider;
- CRS Report 98-367, *House Committees: Assignment Process*, by Judy Schneider;
- CRS Report RS21165, *House Standing Committee Chairs and Ranking Minority Members: Rules Governing Selection Procedures*, by Judy Schneider;
- CRS Report R42778, *House Committee Funding: Description of Process and Analysis of Disbursements*, by Matthew E. Glassman;
- CRS Report RL32794, *House Committee Funding Requests and Authorizations, 104th-115th Congresses*, by Matthew E. Glassman;

[3] Readers may also consult House rules and precedents, committee rules, committee staff, the parliamentarian's staff, or CRS staff concerning specific rules, precedents, and practices applicable in specific committees.

- CRS Report RL30244, *The Committee Markup Process in the House of Representatives*, by Judy Schneider; and
- CRS Report R41605, *House Standing Committees' Rules on Legislative Activities: Analysis of Rules in Effect in the 114th Congress*, by Michael L. Koempel and Judy Schneider.

CRS reports on specific aspects of the legislative process are cited in footnotes in the appropriate parts of this manual. In addition, two-page explanations of specific aspects of House legislative and budget processes and longer CRS products and other procedural materials can be found in the Congressional Process, Administration, and Elections section of the CRS website, at http://www.crs.gov/iap/congressional-process-administration-and-elections. An extensive congressional glossary can be found on the CRS website, at http://www.crs.gov/resources/GLOSSARY?source=search.

1.2. How To Read or Use This Manual

The authors expect readers to use this manual as a reference tool and as an explication of the conduct of committee markups. In approaching the manual, readers will find a detailed Table of Contents that allows them to find the specific topic on which they are seeking information or reference.

The Table of Contents also gives the reader ready access to analysis and explanation of House committee markups—their components and the relationships between those components, majority and minority options, definitions and distinctions, and both the breadth and detail of the markup process from planning to options for House floor consideration. Section 1 clusters the sections of the manual and the appendices by a stage of the markup process, allowing the reader to see which sections and appendices are most closely related.

The reader will find extensive cross-referencing in each section to other sections and the appendices. Readers should also consult the glossary in **Appendix A**. Committee staff should examine staff responsibilities detailed in "18. Role of Committee and Personal Staff" and **Appendix B**, House Committee Markups: Administrative Preparation.

The report's three figures and two tables may also be easily located from the Table of Contents. All the appendices are also listed in the Table of Contents. Except for the first two appendices, the remaining 16 appendices contain procedural scripts that committee staff may use to organize tailored markup scripts for a chair, ranking minority member, or other committee or subcommittee members.

The authors recommend that potential readers, regardless of their official position or length of service, carefully orient themselves to committee markups and the manual by reading Sections 1-6, just over 30 pages in length. These sections contain the background or context necessary for understanding markups as one of the most important of congressional processes and as a key part of the legislative process for determining how a particular bill might become law.

The manual is organized as a progression from pre-markup through House consideration of a committee-reported measure for readers who wish to read it from beginning to end. Readers who wish to build expertise in parliamentary procedures or learn about aspects of procedures described compendiously in this manual are strongly encouraged to read *House Practice* and the parliamentarian's notes expounding on rules and constitutional provisions in *Constitution, Jefferson's Manual and Rules of the House of Representatives of the United States, One Hundred Fifteenth Congress.* (These documents are described at footnotes 1 and 6, respectively.)

The manual may also be used as a desk reference in the office and during markups. Many committee parliamentarians have printed and placed it in a binder, inserting section and key subsection tabs.

2. Introduction to House Committee Markup Procedures

The primary legislative function of standing committees in the House of Representatives is to evaluate the thousands of bills and resolutions that Members introduce during each Congress, which are normally referred upon introduction to the appropriate committee or committees. This evaluation process typically begins with an initial screening in which the majority-party committee leaders and staff, perhaps in conjunction with majority-party leadership, identify the relatively small percentage of measures referred to a committee that may merit more consideration. A committee or one of its subcommittees may conduct one or more days of public hearings to receive testimony about the policy issues in legislation selected for action and the merits of legislation proposed to address it.[4]

If the committee recommends that the House take action on legislation, hearings are followed by markup meetings at which committee members propose and vote on amendments to a measure (or the draft of a measure). These meetings are called markups because committee members "mark up" the legislation before them as they decide what amendments to recommend to the House. Finally, the committee votes to report the bill or resolution with any recommended amendments to the House for chamber consideration.

2.1. What Rules Apply in Committees?

The rules of the House of Representatives are not specific concerning the procedures that committees are to follow in marking up legislation. Rule XI, clause 1(a)(1)(A) states, "The Rules of the House are the rules of its committees and subcommittees so far as applicable." Rule XI, clause 2(a)(1) directs each standing committee to adopt "written rules governing its procedure." This paragraph continues: "Such rules…(B) may not be inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House…." Finally, Rule XI, clause1(a)(1)(B) subordinates subcommittees to the committee of which they are a part: "Each subcommittee is a part of its committee and is subject to the authority and direction of that committee and to its rules, so far as applicable."[5]

These rules do not state which House rules are applicable to committees and their subcommittees. House rules contain different sets of procedures that the House uses under different circumstances to consider various bills and resolutions. It would be not be possible for all of these procedures to

[4] Hearings are not necessarily held on the specific legislative vehicle that is later marked up in committee. Hearings might be held on policy issues, legislative proposals, or previously introduced legislation, with a legislative vehicle for markup developed subsequently. Hearings might also occur in one Congress when legislative action on a major bill is anticipated in the next Congress. Field hearings and oversight hearings also inform decision making in a committee. Hearings are not necessarily held on noncontroversial legislation, such as the naming of public buildings. As explained later, a committee might schedule open hearings, closed hearings, or a mix of both open and closed hearings. See "3.2.4. Open and Closed Meetings."

[5] A brief elaboration of subcommittee powers vis-à-vis a parent committee appears in *House Practice*, ch. 11, § 15, pp. 275-276.

be applicable to committees or applicable at the same time. It would also not be possible for committees to adopt rules that avoid inconsistency with all House procedures.

The House parliamentarian, however, has provided important guidance in the parliamentarian's notes to Section XXX of *Jefferson's Manual:* "The procedures applicable in the House as in the Committee of the Whole generally apply to proceedings in committees of the House...."[6] The phrase "House as in the Committee of the Whole" refers to a distinctive set of procedures that the House may, but rarely does, use to consider measures. These procedures are not listed in the House's rules; rather, they are a matter of well-established precedent. As the phrase suggests, the procedures applicable in the House as in the Committee of the Whole combine elements of the procedures that apply in the House and those that are followed in Committee of the Whole House on the state of the Union (the Committee of the Whole).

Although no House rule specifically requires committees to follow these procedures in marking up legislation, committees typically do follow them—unless a committee agrees by unanimous consent to diverge from these procedures. To the extent feasible or applicable, House rules and precedents on reading measures; amending; voting; and other aspects of legislative procedures, including the authority of the presiding officer, are employed in committee and subcommittee markups. In the commentary accompanying Rule XI, clause 2(a)(1), nonetheless, the House parliamentarian explains that "a point of order does not ordinarily lie in the House against consideration of a bill by reason of defective committee procedures occurring prior to the time the bill is ordered reported to the House…."[7]

There are in addition some well-established procedures in committees that differ from the procedures of the House as in the Committee of the Whole. For example, in the House as in the Committee of the Whole, a measure is considered as read and open to amendment at any point.[8] However, the same parliamentarian's notes that indicate that the procedures of the House as in Committee of the Whole "generally apply" in committee proceedings also state, "…except that a measure considered in committee must be read (by section) for amendment…."[9]

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[6] In U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, One Hundred Fifteenth Congress,* H.Doc. 114-192, 114th Cong., 2nd sess. (Washington, DC: GPO, 2017), § 427, p. 226. (Hereinafter *House Rules and Manual*.) Available online from GPO at https://www.gpo.gov/fdsys/pkg/HMAN-115/pdf/HMAN-115.pdf. In addition, the parliamentarian comments in the notes to Rule XI, cl. 2(a): "Many of the procedures applicable to committees derive from Jefferson's Manual, which governs the House and its committees in all cases to which it is applicable...." *House Rules and Manual,* § 792, p. 560. Regarding the relationship of Jefferson's Manual to House rules, Rule XXIX states: "the rules of parliamentary practice comprised by *Jefferson's Manual* shall govern the House in all cases to which they are applicable and in which they are not inconsistent with the Rules and orders of the House." See also *House Practice,* ch. 11, § 18, p. 280. See also CRS Report 97-1045, *House Rules and Precedents Affecting Committee Markup Procedures*, by Christopher M. Davis.

As is clear from its title, *House Rules and Manual* contains the texts of the Constitution, *Jefferson's Manual*, and current rules of the House. What is not clear is that each constitutional, *Jefferson's Manual*, and rules provision is accompanied by extensive parliamentarian's notes explaining the operation of a provision in House precedent and practice. These notes also trace the evolution of each rules provision. The initial printing of the rules adopted by the House at the beginning of a new Congress, published by the clerk of the House, contains only the current rules. *See,* for example, *Rules of the House of Representatives, One Hundred Fifteenth Congress,* prepared by Karen L. Haas, Clerk of the House of Representatives, January 5, 2017.

[7] *House Rules and Manual,* § 792, p. 560. See also *House Practice*, ch. 11, § 15, p. 276.

[8] *House Practice*, ch. 2, § 15, pp. 32-33.

[9] *Jefferson's Manual*, § XXX, in *House Rules and Manual*, § 427, p. 226.

2.2. Summary of Procedures of the House as in the Committee of the Whole as These Procedures Operate in House Committees

Based on the parliamentarian's guidance and House rules, the key procedures applicable to House committees in the markup process are as follows:

- **First Reading.** A measure is first read in full. This first reading may be waived by a highly privileged, nondebatable motion, however, if printed copies of the measure are available. Rule XI, clause 1(a)(2)(A)(ii) makes this motion in order. (See "8.4. Calling Up and Reading the Measure.")
- **Reading Sections (or Paragraphs) of a Measure.** A section (or paragraph) of a measure must be read verbatim before committee members offer amendments to it. This reading may be waived *only* by unanimous consent. (See "9.2.1. Reporting, Reading, or Designating a Section or Other Unit.")
- **Reading a Measure for Amendment.** A measure must be read for amendment one section (or, if so organized, one paragraph) at a time, unless the committee agrees by unanimous consent to another reading procedure. Members offer their amendments to each section of a measure after that section has been read and before the next section is read. A committee may consider a measure as open for amendment in another way (for example, by title or at any point) *only* by unanimous consent. (See "9.2. Options for Reading for Amendment.")
- **Reading Amendments.** Each amendment must be read before debate on it begins. Reading of an amendment may be waived *only* by unanimous consent. (See "9.3. Reading an Amendment.")
- **Debate.** All debate on amendments and the legislative vehicle is conducted under the five-minute rule. The chair normally entertains debate on points of order and parliamentary inquiries at his or her discretion. Discussion under reservations of the right to object to a unanimous consent request is by practice normally brief, but is not limited by the five-minute rule. (See "9.9. Debate on Amendments.")
- **Motion to Limit or Close Debate.** A committee member may move to limit or close debate on a pending section (and all amendments thereto) or on a pending amendment (and all amendments thereto). This motion may provide that debate end immediately, at a certain time, or after a specified number of minutes or hours. A motion is not in order to close debate on an entire measure if any portion of the measure has not yet been read. (See "9.9.3. Limiting or Closing Debate.")
- **Previous Question.** A nondebatable motion to close debate does precisely that: it stops the debate. It does not prevent committee members from offering additional amendments. To end debate *and* preclude further amendments, a member may move the previous question on a pending amendment and all amendments thereto. A member may also move the previous question on an entire measure (and all amendments thereto) only after the measure has been read in full. (See "12.4. Previous Question.")
- **Vote to Report.** After a committee disposes of the last amendment to a measure, it votes on a motion to report the measure, together with any amendments the committee has agreed to. The committee does not vote on passing the measure, and amendments agreed to are not changes to the measure but recommendations

for change to the House. A majority of a committee must be "actually present" to vote to report a measure.[10] (See "14. Reporting a Measure.")

Neither House nor committee rules are self-enforcing, and it is left to each committee to enforce House rules and precedents and committee rules governing the process of debate and amendment in a markup. A member must make a point of order if he or she believes a rule is being violated. Each committee may also create its own informal or customary practices.

2.3. Importance of Procedure in Committee

House rules and precedents and committee rules are important to the majority and the minority, whether that is a *party* majority or minority or a *policy* majority or minority, and to committee leaders of both parties and to individual committee members. The rules normally allow the party majority to reach a conclusion in markup when it has the votes for its legislative policy. The rules allow the minority to present its views and to seek changes in the legislative text being marked up. Adherence to established rules allows all committee members fair treatment and the ability to represent their constituents and political point of view, even if the positions they favored did not garner the support of a majority of the committee's members.

In addition, majority-party leaders expect their committee chairs to acquit themselves commendably or at least positively. Having conducted a markup with adherence to House rules and precedents and committee rules, a committee presents its House leadership with a clean parliamentary record in anticipation of floor action. Alternatively, as explained later ("15.7. Consequences of Rules Violations in Markups and Committee Reports"), although a committee vote to report a measure largely wipes out points of order occurring during committee consideration of a measure, the process of achieving that end could compromise the majority-party leadership's strategy. The Rules Committee, acting at the reporting committee's or the leadership's behest, might believe it is compelled to include in a special rule waivers of rules and other provisions that could add procedural issues to the policy debate.

If a committee does not acquit itself well procedurally, it might erode the majority-party leadership's and the minority's trust in the committee's leadership. The majority-party leadership could assign leading roles on future legislation important to the majority to other committees or to the leadership itself. The minority of the committee, if it feels that it has been treated unfairly, could become intransigent and challenge procedurally future actions of the majority, both in committee and on the floor.

3. Committee Rules

Committee rules are adopted at the first meeting of a panel soon after a new Congress convenes and committee members are selected. House committees are required by Rule XI, clause 2(a)(1) to adopt their own internal rules of procedure in an open committee meeting with a quorum present. These rules must incorporate the provisions of Rule XI, clause 2, which are numerous, "to the extent applicable." A committee's rules "may not be inconsistent" with House rules or statutory provisions in effect as House rules (Rule XI, clause 2(a)(1)(B)). Committee rules must be published in the *Congressional Record* and in an electronic form not later than 30 days after the election of a committee's chair.

[10] Rule XI, cl. 2(h)(1).

As noted above, Rule XI, clause 1(a)(1) also states, "The Rules of the House are the rules of its committees and subcommittees so far as applicable…." Committee rules generally restate the requirements of Rule XI, but also modify or add new provisions consistent with the intent or meaning of Rule XI and other House rules.[11] The effect of Rule XI is that committees have not only *direction* regarding markup procedure but also *discretion* in creating their own rules, procedures, and customary practices. As is the case with House rules, committee rules are not self-enforcing: a member must raise a point of order if he or she thinks a violation is occurring.

Committees normally adopt the rules in effect in the previous Congress, with any changes usually being incremental. The rules developed over time, fit the practices and culture of a committee, and favored the majority. A committee's chair might consider potential changes in light of the major policy issues the chair anticipates the committee might consider in that Congress and the political environment in which they will be debated, including the committee's party ratio and the ideological makeup of the majority-party members. A chair might also consider his or her party's leadership expectations for how committees will operate, for example, an enhanced or diminished role for subcommittees or the ability to report key legislation aligned with political objectives. Aspects of committee rules that might be examined include

- the role and authority of the committee's chair in scheduling meetings, referring legislation to and discharging it from subcommittees, issuing subpoenas, and taking other actions;
- the role and authority of the ranking minority member, for example, whether the chair may take specific actions without any involvement of the ranking minority member, after "notice" to that member, after "consultation" with that member, or with the "concurrence" of that member;
- the role and authority of the committee vis-à-vis the chair—whether specific actions by the committee may be taken only "by majority vote";
- the role and authority of the minority party, for example, whether the presence of one or more members of the minority party will be required for a quorum for specific business; and
- changes to House rules affecting committees, such as the change in the 108th Congress (2003-2005) that allowed committees to adopt a rule authorizing the chair of a committee and the chairs of its subcommittees to postpone the taking of certain recorded votes.

3.1. Subcommittees

As noted above, Rule XI, clause 1(a)(1)(B) states, "Each subcommittee is a part of its committee and is subject to the authority and direction of that committee and to its rules, so far as applicable." Some provisions of Rule XI and other rules affecting committee activities apply specifically to subcommittees, whereas other provisions of these rules do not. Within the parameters of House rules, committees may grant or withhold authority from their subcommittees in their rules.

Some committees' rules provide extensive guidance concerning the prerogatives of subcommittees, whereas other committees' rules do not. Some committees grant a degree of

[11] When committee rules are silent on a particular matter, House rules prevail. Some committees repeat nearly verbatim some applicable House rules in their committee rules, whereas others simply reference some House rules.

autonomy and authority to their subcommittees, whereas others limit their subcommittees to the conduct of hearings. Some committees' rules require measures referred to the committee to be referred to a subcommittee, often within a specified time period, whereas other committees' rules leave the decision to refer a measure to subcommittee to the chair's discretion. Some committees provide funding to subcommittees for their own staff, whereas other committees require subcommittees to obtain funding and staff from the committee chair for each specific subcommittee activity. (Additional committee rules applicable to subcommittees are discussed below at "6.4. Should Subcommittee Markup Precede Committee Markup?".)

Subcommittees do not have the power to report legislation directly to the House without specific authority granted by the House to do so. (For an explanation of subcommittees reporting to parent committees, see "14.3. Subcommittee Reporting," and **Appendix O**, Sample Script for Subcommittee Reporting.)

3.2. Meetings

Committees meet pursuant to House and individual committee rules on notice, the availability of documents, open-meeting requirements, and quorums (see "3.5. Quorum Requirements"). Rule XI, clause 2(i) prohibits committees from meeting while the House and Senate are in a joint session or during a recess when a joint meeting is in progress.

Rule XI, clause 2(m)(1)(A) authorizes committees to meet and hold hearings, whether the House is in session or has recessed or adjourned, providing the meeting is in the United States. Rule XI, clause 6 allows business to be carried over to a successive session of Congress, normally to the second session from the first session.

3.2.1. Meeting Days and Chairing Meetings

Rule XI, clause 2(b) requires standing committees to adopt regular meeting days not less frequently than monthly for the consideration of committee business. Clause 2(c) grants the chair authority to call additional meetings, and most committee meetings are these additional meetings, held several times a month, as explained below ("3.2.3. Notice and Documents" and "8.1. Notice").

Clause 2(c) also establishes a procedure by which committee members, including minority members, may request or call additional meetings. (See "3.2.2. Members' Initiative to Hold a Markup.") Clause 2(d) directs committee chairs to appoint committee and subcommittee vice chairs, and designates that a majority member preside over a meeting in the absence of a chair or vice chair.[12]

Committees are not required to meet on their regular meeting days, and such a meeting is held only if it has been noticed. (See "3.2.3. Notice and Documents.") An established day, however, can provide a determined minority an opportunity to force a meeting if one is not planned.

3.2.2. Members' Initiative to Hold a Markup

If a chair refuses to call a meeting on a matter, Rule XI, clause 2(c)(2) allows a majority of a committee's membership to convene a meeting. Under this rule, any three members of a committee via a letter to the chair may request a committee meeting on a specific subject. The

[12] The rules of the Democratic Caucus provide that each committee caucus elect a vice ranking member when Democrats are the minority party in the House.

chair has three calendar days to call the requested meeting, which must be scheduled within seven calendar days after the request is filed. If the chair does not act, a majority of committee members may file a written notice in the committee offices ordering the meeting to occur and specifying the time of the meeting and the subject matter. If a majority files the notice, the committee clerk is then required to inform all committee members of the meeting, which will be held at the time identified in the notice.

This authority may be employed as a tactic of the minority, or of members having a minority policy viewpoint, in seeking action on a matter. Such a tactic is unlikely to be successful if the chair has the backing of his or her party's committee members, but it might prove suasive in obtaining an assurance from the chair to schedule the desired business at a future date. A chair might also act if he or she believes that his or her own party's members are sympathetic to action on the matter at issue.[13]

3.2.3. Notice and Documents

Rule XI, clause 2(c)(1) authorizes committees to adopt procedures for scheduling meetings, and most committee meetings are scheduled pursuant to these committee rules. Under this authorization, committees minimally adopt "notice requirements" in their rules to inform committee members of a meeting a certain number of hours or days in advance of the meeting and of the agenda for the meeting. (For an example of a notice, see **Figure 1**.)

Because of House rules, committees typically distinguish between notice for hearings and notice for meetings. The House requires a notice of at least one week for hearings and of at least three days for meetings. The House also allows shorter notice for both hearings and meetings if the chair obtains the concurrence of the ranking minority member or, by majority vote, the concurrence of the committee. In addition, for a markup meeting, a chair must make available to committee members at least 24 hours in advance the text to be marked up, in electronic form. If notice of a markup is less than 24 hours, the text must be made available prior to the meeting, in electronic form. (Rule XI, clause 2(g)(4).) Some committees' rules exceed the requirements of the House rules.[14]

Some committees have specific scheduling requirements applicable to their subcommittees.[15]

Committees have turned by practice to electronic notification in addition to or instead of written notification. Although most committees' rules do not make a distinction, some committee chairs clarify what a committee's practice will be in the course of markup of the committee's rules or in a later committee meeting. (See also the introduction to this part, "3. Committee Rules.")

[13] In contrast to the disadvantage a committee minority has to call a markup contrary to a chair's desires, the minority membership of a committee, specifically, has the power to obtain a hearing with witnesses it has called, pursuant to Rule XI, cl. 2(j)(1). The minority can insist on a day of hearings under the rule. For additional explanation, see CRS Report RS22637, *House Committee Hearings: The "Minority Witness Rule,"* by Christopher M. Davis. Committees or subcommittees usually work out an agreement to include minority witnesses on panels or as part of a hearing comprising largely majority-called witnesses. Some committees have taken cognizance of the majority-minority ratio on the committee in allocating majority and minority witness slots on panels or among witnesses, with the minority allocation increasing or decreasing as the ratio changes.

[14] The Rules Committee is exempted from the operation of these rule provisions.

[15] Committees' requirements for their subcommittees is examined in CRS Report R41605, *House Standing Committees' Rules on Legislative Activities: Analysis of Rules in Effect in the 114th Congress*, by Michael L. Koempel and Judy Schneider.

Some committees' rules and practices provide for distribution of the markup text to occur further in advance than 24 hours and require amendments to be submitted thereafter but prior to the markup. (See, for example, "7.4. Amendment in the Nature of a Substitute.")

Rule XI, clause 1(a)(2)(A)(ii) allows a privileged, nondebatable motion in committee to dispense with the first (full) reading of a measure on the agenda if printed copies of the measure are available. Committees normally interpret the availability criterion to be met by distributing the measure (or link to the measure) with the meeting notice. (See "8. Beginning a Markup" for a discussion of notice, reading a measure, and other procedural aspects of commencing a markup.)

3.2.4. Open and Closed Meetings

Pursuant to Rule XI, clause 2(g)(1), committee and subcommittee markups must be open to the public and media coverage. To hold an executive, or closed, markup session, a committee or subcommittee must vote in open session, with a majority present and by recorded vote, to close a meeting on "that all or part of the remainder of the meeting on *that day.*" *(Emphasis added.)* A motion to close a committee meeting is not debatable.[16] The rule states that a meeting may be closed only for one of four reasons:

- "disclosure of matters to be considered would endanger national security";
- "disclosure of matters to be considered…would compromise sensitive law enforcement information";
- "disclosure of matters to be considered…would tend to defame, degrade, or incriminate any person"; or
- "disclosure of matters to be considered…otherwise would violate a law or rule of the House."

There are generally three nondebatable motions available to close a committee's business: (1) a motion to close; (2) a motion to close pending discussion; and (3) a motion to close proceedings for a subsequent day.

There may be unanimity among committee members on the need for an executive session. However, tactical use could be made of any of these motions to delay proceedings, to identify differences among committee members, or for another purpose.

Rule XI, clause 2(g)(1) also lists the persons permitted at an executive session "as the committee may authorize": members of the committee; other Members, including the Delegates and Resident Commissioner; congressional staff; and departmental representatives. Rule XI, clause 2(k)(7) allows proceedings conducted in an executive committee session to be released only by a majority vote of the committee.

3.2.5. Media Coverage

Rule XI, clause 4 establishes guidelines for nonprint media coverage of committee meetings. This clause regulates audio and visual coverage of committee meetings, and establishes procedures to

[16] *House Practice*, ch. 11, § 20, p. 281. There are also specific rules or exceptions applicable to one or more committees. For example, Rule XI, cl. 3(h) requires the Ethics Committee to have a committee rule closing most meetings "unless the committee or subcommittee by an affirmative vote of a majority of its members opens the meeting or hearing to the public…." See also Rule XI, cl. 2(g)(a), excepting the Ethics Committee from open meeting requirements.

be followed in the conduct of such coverage in open meetings of committees. Committees are directed to adopt rules implementing this clause.

3.3. Opening Statements

Committee rules, but not House rules, allow and regulate opening statements—short, initial statements made orally or submitted in writing by committee members on the business for which a chair has called a meeting. A committee's rules adopted at the beginning of a Congress may restrict oral opening statements, often to those of the chair and ranking minority member of the committee or a subcommittee. Some committees' rules or practices also allow the relevant subcommittee chair and ranking minority member to make oral opening statements at full-committee markups, and they allow a full committee's chair and ranking minority member, who serve ex officio on some or all subcommittees, to make oral opening statements at subcommittee meetings. A committee rule or practice might also allow a committee member who is the sponsor of a measure to be considered by the committee to make a statement, with time allocated as well to a committee member of the other party.

By committee rule or practice or by unanimous consent, other committee members are allowed to submit opening statements in writing for the record; they are not typically read aloud.

Alternatively, committee rules or practices may follow House rules and precedents and restrict oral opening statements to five minutes. Committees that allow members other than the chair and ranking minority member to make oral opening statements may limit opening statements to less time, for example, three minutes.

3.4. Postpone Votes

Rule XI, clause 2(h)(4) authorizes each committee to adopt a rule to allow its chair to postpone proceedings to take a recorded vote on an amendment or approval of a measure and to permit a chair to resume proceedings after notice. All committees have adopted this rule. (For a discussion of voting, including postponing votes, see "13. Voting.")

In practice, most committees postpone votes to allow members to vote on the House floor or to attend a House or congressional event, such as a classified briefing for House Members or a ceremony for awarding the Congressional Gold Medal. Because floor votes are often clustered and might therefore consume much more time than the 15 minutes that a single vote could take, committee chairs typically announce when proceedings will resume in committee after the vote, for example, 10 minutes following the conclusion of the last floor vote. A quorum must be reestablished when the committee reconvenes.

A determined minority might take tactical advantage of this situation by not returning to committee in a timely fashion, requiring additional time for a quorum to be assembled and thereby delaying the resumption of business.

3.5. Quorum Requirements

Rule XI, clause 2(h)(3) sets the quorum for committees (except the Appropriations, Budget, and Ways and Means Committees) to conduct business at not less than one-third of a committee's members, although pursuant to clause 2(h)(1) a majority of a committee must be present to *report*

a measure or recommendation. A quorum must again be established when a committee reconvenes after a recess.[17]

Most committees have adopted the House rule as their quorum rule for business such as markups, although some committees require a majority to be present for committee business or for specific business items. (In contrast, a few committees have adopted the House quorum rule for hearings but in addition seek the presence of one or more minority members.) Committee quorum rules are expressed most often as a proportion of a committee's membership, but may be expressed as a specific number.

Convening a meeting without a quorum or with more minority members present than majority members may open procedural opportunities for frustrating a chair's agenda. (See "8.2. Quorum and Call to Order.") Failing to maintain a quorum may result in a point of order and a suspension of business. (See "11. Points of Order.")

3.6. Recess

Rule XI, clause 1(a)(2) authorizes a chair to recess a committee subject to the chair's call within a 24-hour period. The provision also allows a privileged motion to be made in committee (or subcommittee) to allow it to recess day to day. The motion to recess is neither debatable nor amendable.[18] (See "12.5. To Recess" and "13.6. Postponing Votes.")

3.7. Reporting

Rule XI, clause 2(l) allows any committee member to file supplemental, minority, additional, or dissenting views for inclusion in a committee report accompanying legislation reported to the House, provided that the views are to be filed "not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day)."

As indicated, a majority must be present for a committee to report. Committee reporting and committee reports are discussed extensively at "14. Reporting a Measure" and "15. Committee Reports," respectively.

3.8. Subpoenas

Rule XI, clause 2(m) authorizes committees and subcommittees to issue subpoenas for the attendance of witnesses and the production of documents, "a majority being present." Unless otherwise provided in their rules, a quorum of one-third is required to debate a subpoena, under Rule XI, clause 2(h)(3). Rule XI, clause 2(m)(3) allows committees to adopt rules to delegate the issuance of subpoenas to a committee's chair "under such rules and under such limitations as the committee may prescribe."[19]

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[17] If a committee adjourns for lack of a quorum, a majority of committee members may not call for a meeting of the committee on the same day without the consent of the chair. *House Rules and Manual*, § 793, p. 563.

[18] *House Practice*, ch. 45, § 2, p. 792. Privilege is defined thus: "An attribute of a motion, measure, report, question, or proposition that gives it priority status for consideration. That status may come from provisions of the Constitution, standing rules, precedents, or statutory rules." Walter Kravitz, *Congressional Quarterly's American Congressional Dictionary*, 3rd ed. (Washington, DC: CQ Press, 2001), p. 188. (Hereinafter *Congressional Quarterly's American Congressional Dictionary*.)

[19] This same subparagraph allows a subcommittee of the Ethics Committee to issue a subpoena only by a vote of a (continued...)

The House Office of the General Counsel maintains standard forms related to subpoenas to assist committees, although some committees, such as Oversight and Government Reform, have extensive experience with subpoenaing government and nongovernment witnesses and documents. If a committee meets to consider a subpoena, it meets in a markup session, and members may offer amendments and motions, make points of order, and engage the procedures and procedural strategy that could occur in a markup of legislation.

Many committees' rules delegate authority to the chair to issue subpoenas, with limitations that vary from committee to committee on a chair's exercise of this authority. Some chairs may issue subpoenas only if the House is in recess for more than a certain number of days. Some chairs may issue subpoenas only after consulting or notifying the ranking minority member. In some committees, subcommittees may issue subpoenas only with the approval of the full committee chair. Other limitations appear in committees' rules.

3.9. Committee Records

Rule XI, clause 2(e)(1) requires committees to keep records of all committee actions, including "substantially verbatim" accounts of hearings and meetings, including markups, and records of all roll-call votes. With exceptions, these records must be available for inspection by Members, staff, and the general public in the committee offices.[20] Public availability does not necessarily allow a Member or other person reviewing a record to photocopy it or make notes.[21] Clause 2(e)(4) recommends that committee publications be made available in electronic form "to the maximum extent feasible."

Pursuant to Rule VII, each committee chair is responsible for transferring noncurrent records of the committee to the clerk of the House, who is then responsible for transmitting those records to the National Archives.[22]

4. Procedural Restrictions in Law on Certain Markups

The Constitution gives the House and Senate authority to make their own rules of proceedings.[23] In addition to making rules for the House by the adoption of a simple House resolution or for the Senate by the adoption of a simple Senate resolution, the House and Senate regularly exercise their constitutional rulemaking authority by including rules in statutes. Congress thereby might make rules applicable in one or both chambers. The Legislative Reorganization Acts of 1946 and 1970 made numerous changes to the rules of each chamber.[24]

(...continued)

majority of its members.

[20] Rule XI, cl. 2(e)(1)(B)(ii) exempts the Committee of Ethics and states that a majority of the committee members must vote to make records available. In addition, Rule X, cl. 11(c) and 11(g)(3) allows the Intelligence Committee to restrict access to classified information in its possession. Rule XI, cl. 2(k)(7), applicable to most committees, allows a committee that has conducted a meeting in executive session to vote to make those proceedings publicly available, "a majority being present."

[21] *House Rules and Manual*, § 796, pp. 566-567.

[22] For a discussion of committee record keeping, see *House Practice*, ch. 11, § 16, pp. 276-279.

[23] U.S. Const., art. I, § 5, cl. 2.

[24] 60 Stat. 812 (1946) and 84 Stat. 1140 (1970), respectively.

Congress might also include rules in statutes to establish a specific set of procedures in one chamber or both chambers for one piece of legislation or for all measures on a specific subject. The purpose of such rules may be to expedite the consideration of certain measures in Congress, to ensure up-or-down votes are reached on the House and Senate floors within a certain time frame, to establish a process for Congress to make a decision in which it has been unable to do so by normal legislative procedures, to balance the potential need for decisive executive action against the deliberative processes of Congress, or for other reasons.

These kinds of statutory rules might be referred to colloquially as "fast-track" or "expedited" procedures. They might apply to committee consideration of one piece of legislation or of measures on a specific subject, determining—

- whether a measure is referred to committee,
- the duration of the referral, and
- whether the measure may be reported with amendments.

The Trade Act of 1974, for example, provides for the introduction of an implementing bill for a trade agreement and its referral to committee. It disallows committee amendments, and discharges the bill from committee after 45 days if it has not been reported.[25] Under the Congressional Budget Act, as another example, if reconciliation instructions are included in an annual budget resolution, the committees named decide how to implement the instructions and then submit their recommendations to the House and Senate Budget Committees, "which upon receiving all such recommendations, shall report to its House reconciliation legislation carrying out all such recommendations without any substantive revision."[26] The Budget Committees' only markup authority is to assemble the work of the other committees into a measure called reconciliation legislation and to report that legislation to their parent chamber.

House Rules and Manual contains excerpts from the Congressional Budget Act, the Budget Enforcement Act of 1990, and the Statutory Pay-As-You-Go Act of 2010[27] and from statutes containing rules pertaining to House consideration of specific legislation.[28]

The Ways and Means Committee (and the Senate Finance Committee) has in addition developed its own supplementary procedures under the Trade Act to allow it to bring its expertise to bear on draft bills implementing trade agreements. The Ways and Means Committee may hold a "mock markup" on a draft bill prior to the President's submitting the measure to Congress. This procedure allows the committee to react to draft legislation and for the President to consider the committee's views before formally submitting a bill to Congress pursuant to the expedited procedures in the Trade Act.[29]

Because rules in statutes are created pursuant to the constitutional authority of each house to make its own rules, either chamber can change whether or how these rules of procedure are followed. For example, the House on April 10, 2008, adopted H.Res. 1092 to make expedited

[25] 19 U.S.C. § 2191.

[26] 2 U.S.C. § 641(b).

[27] *House Rules and Manual*, §§ 1127 and 1129, pp. 1053-1137.

[28] Ibid., § 1130, pp. 1141-1321. For an introduction to expedited procedures, *see* CRS Report RS20234, *Expedited or "Fast-Track" Legislative Procedures*, by Christopher M. Davis.

[29] See, for example, Stephen J. Norton, "CAFTA Inches Forward in Both Chambers," *CQ Weekly*, vol. 63, no. 25, June 20, 2005, p. 1656; and Charlene Carter, "House Ways and Means Committee Business Meeting: House Panel Backs Trade Agreements," *CQ Committee Meetings*, July 7, 2011, available at http://plus.cq.com/doc/committees-2011070700289279?10.

committee and floor procedures under the Trade Act of 1974 *inapplicable* to H.R. 5724, the measure introduced to implement the United States-Colombia trade agreement submitted to Congress by President Bush.[30]

5. Referral of Legislation in the House

When a measure is introduced, it is assigned to one or more committees for their consideration. This action is called referral or reference.[31] Under Rule XII, the Speaker is directed to refer measures and other matters to committees, pursuant to the committees' jurisdictional statements contained in Rule X. In practice, the House parliamentarian refers nearly all measures in behalf of the Speaker.

Markup procedures and strategy for a measure are affected by its referral. How many committees received a referral, in what order the referral was made, what limitations the Speaker imposed in the referral—these referral decisions affect a committee's decisions on what to mark up, when to mark up, what amendments to consider, what and when to report, and other markup issues. The following discussion examines referral in the House, with the repercussions explored in other parts of this manual. Implications of referral decisions for a markup are discussed specifically at "7.5. Markup Based on Sole, Primary, Additional Initial, or Sequential Referral," and "15.4. Report with Parts—Measures Referred to More Than One Committee."

5.1. House Rules on Referral

Committee jurisdiction is determined by a variety of factors. Paramount is Rule X, which lists subject matter within the jurisdiction of each standing committee.[32] Rule X, however, largely uses broad, general terms and is the product of an era in which governmental activity was less extensive and the relationships among policies were less intertwined than now. Most of the text of Rule X was drawn from precedents from the 19th century and first half of the 20th century; it was codified in the Legislative Reorganization Act of 1946.[33] Although the rule underwent modest revisions in 1974 and 1980, as well as more extensive changes in 1995 and 2005, topic omissions, unclear or arguable jurisdictional boundaries, shared jurisdiction over programs or agencies, and overlaps in jurisdiction exist.[34] Accordingly, the formal provisions of the rule are supplemented by an intricate series of precedents and informal agreements governing the referral of legislation.

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[30] "Relating to the Consideration of H.R. 5724, United States-Colombia Trade Promotion Agreement Implementation Act," *Congressional Record*, daily edition, vol. 154, part 4 (April 10, 2008), pp. 5640-5654. As another example, see the temporary suspension of a provision of the War Powers Resolution in H.Res. 242 (115th Cong.): "Sec. 4. Each day during the period addressed by section 2 of this resolution shall not constitute a calendar day for purposes of section 7 of the War Powers Resolution (50 U.S.C. 1546)."

[31] *Congressional Quarterly's American Congressional Dictionary*, p. 210.

[32] The jurisdictional statements of the standing committees appear in Rule X, cl. 1. The jurisdiction of the Permanent Select Committee on Intelligence appears in Rule X, cl. 11(b). While a jurisdictional statement for the Committee on Ethics appears in Rule X, cl. 1, additional authority appears in Rule XI, cl. 3(a). The House might also create a select committee and vest it with specific *legislative jurisdiction*, exclusive or not exclusive of standing committees. See CRS Report R40233, *House Ad Hoc Select Committees with Legislative Authority: An Analysis*, by Michael L. Koempel.

[33] 60 Stat. 812 (1946).

[34] Walter Oleszek et al., *Congressional Procedures and the Policy Process*, 10th ed. (Thousand Oaks, CA: CQ Press, 2016), pp. 106-116. (Hereinafter *Congressional Procedures and the Policy Process*.) More detail appears in Walter Oleszek, *Congressional Procedures and the Policy Process*, 7th ed. (Washington, DC: CQ Press, 2007), pp. 81-89.

A distinction needs to be made between legislative jurisdiction and oversight jurisdiction. The former denotes the authority to report measures to the House; the latter, to review or investigate. Oversight jurisdiction may be the product of a specific legislative enactment; it also accrues from committees' responsibilities over broad topical areas. Hence, there are frequent overlaps in oversight jurisdiction. Legislative jurisdiction, however, occasions the majority of open conflicts between committees.[35]

Based on precedent, if a measure is referred to a committee, like measures in the future will also be referred to that committee. If the measure is enacted into law, amendments to that law are presumed to be within the same committee's jurisdiction. In contrast, legislation that is more comprehensive than the law it amends, or supersedes, is generally within the jurisdiction of the committee reporting the more comprehensive measure. These precedents result in an accretion of subject-matter responsibility within a committee's jurisdiction.[36]

Informal agreements, drafted among committees to stipulate their understanding of jurisdictional boundaries, have been used in recent years. House parliamentarians, in advising the Speaker, have generally considered themselves bound by such agreements when they are supported by all the committees concerned and when the House, usually by unanimous consent, has given its assent to such agreements.[37] (See "5.4. Protecting a Committee's Jurisdiction.")

In the event of an erroneous referral, a measure may be referred to the appropriate committee, pursuant to Rule XII, clause 7(a*)*. However, erroneous referrals are most commonly corrected today by unanimous consent, with a colloquy occurring on the House floor between the chairs of the affected committees. An erroneous referral of a public bill or resolution that remains uncorrected confers jurisdiction; erroneous referral of a private bill, left uncorrected, does not confer jurisdiction.[38]

5.2. Speaker's Authority

The Speaker is vested with authority to refer legislation to committees. Pursuant to Rule XII, the Speaker must refer legislation and other matters, based on the subject listings in Rule X, clause 1. He or she must refer "in such manner as to ensure to the maximum extent feasible that each committee that has jurisdiction under clause 1 of rule X over the subject matter of a provision thereof may consider such provision and report to the House thereon."[39]

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[35] For a discussion of the introduction and referral of legislation, see *House Practice*, ch. 6, §§ 6-8, pp. 170-173, and ch. 11, §§ 8-11, pp. 250-260. In addition, House rules proscribe the introduction and referral or consideration of legislation on certain topics: private bills or resolutions for payment for property damage, personal injury, or death for which a suit is allowed under the Federal Tort Claims Act; for a pension, except in very limited circumstances; for construction of a bridge over a navigable stream; or for correction of a military or naval record. Rule XII, cl. 4. A private bill "may be generally defined as a bill for the benefit or relief of one or several specified persons or entities." *House Practice*, ch. 6, § 14, p. 177. Commemorative bills and resolutions are also barred. Rule XII, cl. 5.

[36] A measure might amend an existing statute or be freestanding, that is, not amending an existing statute. A committee seeking to expand its jurisdiction often drafts legislation to amend laws within its jurisdiction. See, for example, the instances presented in *Congressional Procedures and the Policy Process*, pp. 109-110. Additional drafting strategies are discussed below in "5.3. Drafting Strategy and the Referral of Legislation."

[37] *House Practice*, ch. 11, § 8, p. 251. The House itself may also refer a measure, regardless of committee jurisdiction. *House Rules and Manual*, §714, p. 442; and *House Practice*, ch. 6, § 7, p. 172, and ch. 11, § 8, p. 250.

[38] *House Rules and Manual*, § 714, p. 443.

[39] Rule XII, cl. 2(b). See also *Jefferson's Manual*, § XXXIII in *House Rules and Manual*, § 446, p. 235. Additional provisions apply to the referral of private measures (Rule XII, cl. 2(d); cl. 3; and cl. 6), petitions and memorials (Rule XII, cl. 3 and cl. 6), and executive communications (Rule XII, cl. 8). See also Rule X, cl. 1 in *House Rules and Manual*, (continued...)

The House first authorized the Speaker to refer measures to more than one committee in the Committee Reform Amendments of 1974.[40] The Speaker was given three new choices. First, the Speaker could refer a measure to more than one committee—a joint referral—which essentially gave all committees receiving a referral an equal voice in moving or stopping legislation. Second, different parts of a measure could be sent to different committees—a split referral. Third, a measure could be referred to one committee and then to another committee or other committees—a sequential referral. As initially drafted, the Committee Reform Amendments also proposed extensive changes to committees' jurisdiction, the purpose of which was to reduce overlapping jurisdictions. Those changes were deleted from the Committee Reform Amendments as passed.

These so-called multiple referrals were used frequently in the 20 years after they were authorized, oftentimes to acknowledge overlapping jurisdictional issues and oftentimes to avoid choosing among committees' jurisdictional claims. Two consequences of multiple referrals in the absence of jurisdictional reform were the further broadening of jurisdictions and the further fragmenting of responsibility over policies and programs.[41]

In 1995, the House adopted rules changes that amended the Speaker's authority to multiply refer measures, with the change expected to better hold committees more accountable for action on legislation. Under the change, the Speaker could no longer refer measures jointly; instead, he was authorized to designate a committee of primary jurisdiction when referring a measure to more than one committee, with the other committees receiving in the words of one congressional scholar an "additional initial referral" to the committee of primary jurisdiction.[42] Although narrowly drafted measures that may be referred to just one committee are the most common, referral of legislation to two or more committees, with one committee designated as primary, is commonplace. Split and sequential referrals were still allowed. The Speaker could impose time limitations on any committee receiving a referral.[43]

In 2003, with the rules changes adopted in the 108th Congress, the Speaker was authorized to refer measures to more than one committee without designation of a primary committee under "exceptional circumstances."[44] The purpose of the change was to give the Speaker flexibility not to choose a primary committee, although the Speaker has rarely exercised this authority.

5.3. Drafting Strategy and the Referral of Legislation

Members may use the ambiguities in jurisdictional statements to influence the referral of legislation by carefully drafting measures and previewing drafts with the parliamentarians. If a parliamentarian indicates a draft will go to one committee or to a committee designated as primary and that referral suits the Member, the Member might introduce the measure as drafted. If a parliamentarian indicates a referral that the Member dislikes, the Member can use the information to try to redraft the measure to change the jurisdictional subject matter to trigger

(...continued)

§ 714, pp. 441-444.

[40] Sec. 101 of H.Res. 988, agreed to in the House October 8, 1974.

[41] *Congressional Procedures and the Policy Process*, pp. 112-116.

[42] Ibid., pp. 113-114.

[43] Rule XII, cl. 2(c). This clause also authorizes the Speaker to refer a measure to a select committee, the creation of which was approved by the House, and to "make such other provision [regarding referral] as may be considered appropriate." Clauses 2(c)(4) and 2(c)(6), respectively.

[44] Rule XII, cl. 2(c)(1).

another committee's jurisdiction or to change the emphasis of the jurisdictional subject matter so that another committee is designated as primary.

A sponsor of legislation often considers how to draft a measure so that it will be referred to a committee favorably disposed to the measure and therefore likely to act, especially if it is a committee on which the sponsor serves. If, however, a sponsor is introducing legislation at the behest of a group or an individual and is not favorably disposed to the support the measure, the Member might draft it so that it will be referred to a committee presumed to be less sympathetic to the measure, possibly dooming its fate by its mere referral to an unfriendly committee. A member might choose to address aspects of an issue within the jurisdiction of just one or two committees to increase the chances of action. Another alternative that a sponsor might choose is to draft a measure so that it is extensive in scope or ambiguous, resulting in the measure's referral to numerous committees with little expectation that all the committees would take action.

Members frequently choose to introduce measures that amend laws within the jurisdiction of committees on which they serve in order to increase their opportunities to promote committee action. For example, a Member interested in introducing a health-related measure might choose to draft a bill amending the Employee Retirement Income Security Act if he or she serves on the Education and Labor Committee, the Public Health Service Act if he or she serves on the Energy and Commerce Committee, or Medicare Part A if he or she serves on the Ways and Means Committee. Other committees have jurisdiction over health care for specific populations, such as the Armed Services Committee for members of the Armed Forces and Veterans' Affairs for veterans. Similarly, all revenue measures are referred to the Ways and Means Committee. So, a Member might propose a fee rather than a tax in a measure he or she introduces so that another committee's jurisdiction might be relevant.

Other factors that could influence referral may be considered in drafting, although these factors are neither formal nor acknowledged in rules or precedents:

First, the committee assignment and generally acknowledged issue expertise of a measure's sponsor could influence the appropriate referral of a measure. Sponsorship by a committee or subcommittee chair or ranking minority member could increase the relevance of this factor.

Second, the timing of a measure's introduction might affect committee referral. For example, if a Member introduces legislation following hearings on, or press coverage of, a subject in which the Member was very involved, the Member presumably wishes to have the measure referred to a committee on which the Member serves in order to legislate on what has recently been studied.

Third, even if a committee did not initially consider a measure, representation from its membership on a House-Senate conference on the measure could be used to argue that the committee has a claim to the measure's subject matter.

Fourth, jurisdiction over specific authorizing legislation can be influenced or, arguably, determined by which Appropriations Committee subcommittee has considered appropriations requests for a program or activity. For example, although House rules generally forbid legislating in a general appropriations bill or appropriating for unauthorized activities, the Appropriations Committee regularly establishes legislative policy in annual, supplemental, or continuing appropriations measures. When an authorization bill is subsequently introduced, referral to a legislative committee could be made after considering which Appropriations subcommittee had handled the program or activity. Similarly, reconciliation instructions in a budget resolution naming a committee could subsequently influence the referral of legislation to legislative committees.

5.4. Protecting a Committee's Jurisdiction

Committees are generally very protective of their jurisdictional prerogatives. They monitor the introduction of legislation to protect their jurisdiction by ensuring appropriate referrals. If a panel believes that it should have received a referral of a measure, it can seek unanimous consent to have a measure re-referred. On occasion, but rarely in recent years, jurisdictional unanimous consent requests have been promoted by the Speaker after receipt of a letter from an aggrieved committee claiming an erroneous reference of a measure. A committee chair could also draft a letter to the Speaker requesting a re-referral or sequential referral.

Similarly, committees monitor measures reported from other committees to determine whether a sequential referral should be sought, especially if another committee adopted provisions presumably outside its jurisdiction and within the jurisdiction of the committee monitoring reported measures. In either case, the Speaker is authorized to sequentially refer a measure in its entirety or for "such provisions as fall within the jurisdiction" of other committees and to impose a time limit on such a referral.

The House has historically recognized the importance of cross-committee agreements pertaining to shared or overlapping jurisdictional subjects. Most recently, these agreements delineating the jurisdictional boundaries of panels have taken the form of written, publicly available memoranda endorsed by the chairs of affected committees. They might deal with a single piece of legislation or with all legislation involving a specified subject matter. These memoranda of understanding (MOUs) serve to guide the House parliamentarian in making referrals of legislation on the Speaker's behalf. Typically, such MOUs are printed in the *Congressional Record.* [45] The parliamentarian's notes in *House Rules and Manual* include, among historical and precedent explanations, formal reference to these memoranda, acknowledging their binding character.[46]

If an MOU cannot be negotiated, committees often engage in scripted colloquies on the House floor to highlight each committee's view about its respective jurisdictional boundaries. However, these discussions are generally perceived to have somewhat less weight in making referrals than would formal memoranda.

Alternatively, a committee may arguably authorize its chair to offer a motion to re-refer a measure. The Speaker inquires if the chair is acting on the direction of his or her committee, and, if so, will put the question on the motion to the House without debate. This motion has not been used, however, since the 82nd Congress (1951-1953).[47]

Sometimes committees have agreed to relinquish their rights to a formal referral (or to consideration following a referral) on a complex issue in order to facilitate House floor action on a measure. Committees typically do so, either in a floor statement or in a letter to the Speaker, with the explicit understanding that failure to demand a referral or agreement to be discharged does not affect the formal jurisdiction of the panel and its future right to referral on that or related

[45] See, for example, Rep. Louise M. Slaughter, remarks in the House, "Memorandum of Understanding between the Committee on Transportation and Infrastructure and the Committee on Homeland Security" (concerning the Federal Emergency Management Agency), in "Rules of the House," *Congressional Record*, vol. 153, part 1 (January 4, 2007), p. 16.

[46] *House Rules and Manual*, § 722, p. 461.

[47] Lewis Deschler, *Deschler's Precedents of the United States House of Representatives*, vol. 4, 94th Cong., 2nd sess., H.Doc. 94-661, ch. 17, § 28.4 (Washington, DC: GPO, 1977), pp. 514-516. Available online from GPO at https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=GPO&browsePath=Precedents+of+the+U.S.+House+of+Representatives&isCollapsed=false&leafLevelBrowse=false&ycord=0; and *House Practice*, ch. 6, § 7, pp. 172-173.

subjects. On occasion, such voluntary action has also been coupled with a demand for representation at the conference stage.[48]

6. Considerations Prior to a Markup

The importance of committee markups is perhaps indicated by the commitment that committee members make to attending. Chairs fully exercise their committee leadership role in planning for a markup, and they preside at it. If a chair delegates chairing to another majority-party member, it is likely to be for only a brief period. Committee members are largely present throughout a markup. If they must be absent during a markup, they are able to return quickly when notified that their presence is needed.[49] Although all Members' opportunities to offer amendments on the House floor are normally circumscribed, the amendment process in committee is typically bound only by House and committee rules and precedents and unanimous consent agreements among committee members. This opportunity to participate fully and in detail in the legislative process is a key inducement to members to fully engage in a markup. In addition, the conduct of a markup is relatively formal, and chairs and members adhere to and employ House and committee rules and precedents.[50]

A markup culminates what is often a long period of preparation. That preparation may begin prior to convening the first hearing on a public policy issue or the introduction of the legislation on that issue. A chair, majority-party committee members, and majority staff often plan legislative strategy around the congressional calendar. They look to the end of a Congress, or a session of Congress, and plot a legislative strategy for the intervening months. This kind of planning can—

- clearly indicate the legislative goal;
- empower a chair in leading his or her committee and working with party leaders by having a clear goal on which to focus attention;
- identify different routes to that goal and anticipate potential political or procedural roadblocks;
- encompass possible actions in the Senate;
- save time by having a larger strategy that can be adjusted, rather than having to work out strategy for the next stage as the previous stage is completed; and
- take advantage of momentum that one stage of the legislative process builds for the next stage.

[48] See, for example, letters exchanged between various committee chairs and the chair of the Homeland Security Committee concerning the referral of the H.R. 2825, Department of Homeland Security Authorization Act. These letters were printed in the *Congressional Record:* Rep. Michael McCaul, "Department of Homeland Security Authorization Act," House debate, *Congressional Record*, daily edition, vol. 163 (July 20, 2017), pp. H6110-H6111.

[49] Members sometimes work in committee anterooms, where they can monitor committee proceedings while doing other work. Many committee meetings are live streamed and appear on House and C-SPAN channels, allowing another means for Members and their staff to stay abreast. Committee staff also monitor events in other committees to notify committee members serving on committees with concurrent meetings to return to a meeting when needed.

[50] In contrast, at committee hearings, chairs may delegate chairing to a vice chair or another majority-party member, and few committee members tend to be present at any one time. Although House or committee rules and precedents apply at a hearing, few are likely to be invoked. A reason for these differences between hearings and markups may be that hearings are designed to some degree to generate public and congressional attention for a public policy issue—perhaps even relying on celebrity witnesses to draw media and public attention—whereas markups are designed to draft solutions for the issue.

Explanation of the staff role appears below at "18. Role of Committee and Personal Staff" and in **Appendix B**, House Committee Markups: Administrative Preparation.

Chairs normally plan markups when the House will be in session to facilitate members' attendance. Members are almost certain to be in Washington, DC, when the House is meeting, unless they are ill or attending to a family emergency.[51] Knowing committee members are available when conducting a markup, a chair is able to quickly assemble all majority-party members for recorded votes and, presumably, outvote the minority on amendments and procedural motions.

The following are some of the key considerations for committees as they plan markups.

6.1. Timing

In consultation with their party's leaders and committee members, chairs determine when to convene a markup and what to put on the agenda. A chair may decide when and what based on a number of factors, but this decision is foremost a political decision about winning support for a legislative change of public policy. As a Brookings Institution scholar noted, timing is critical in politics:

> Timing is to politics what location is to real estate. Good policy ideas are useless if the time is not right. In a democracy, leaders must focus—and be seen to focus—on problems the public cares about the most. If the political agenda is not aligned with the public agenda, the likely result is frustration and anger. Conversely, if leaders work hard on the public's problems, the public response is likely to be favorable, even if the results are not immediate.[52]

If a chair has the option of contemplating the advantageous timing of a markup, he or she might consider a variety of factors:

- momentum behind an issue—events driving public interest, the completion of hearings that generated publicity for the issue, media coverage of the issue (public and media interest is discussed below), or other bases for momentum;
- pending state primaries and caucuses where committee members are seeking renomination, general election politics, and presidential election-year politics;
- enthusiasm for the issue and legislation to address it among majority-party committee members, leaders, and caucus or conference;
- possibility of some minority-party committee members' support;
- the Administration's priority for the issue and its efforts to generate public and congressional support;
- majority-party leadership's assignment of priority to the issue, instructions conveyed to the committee chair, and plans for scheduling floor time for legislation to address the issue (discussed below);

[51] In these instances, a party leader normally notifies the House in behalf of the Member, and a "leave of absence" is granted by unanimous consent on the House floor.

[52] William A. Galston, "Obama Has a Problem Prioritizing His Agenda," December 8, 2009, available at https://newrepublic.com/article/71760/matter-priorities. See also William A. Galston, "Trump's Supporters Are Worried About His Priorities, and Tired of His Tweets," FixGov blog, The Brookings Institution, August 9, 2017, available at https://www.brookings.edu/blog/fixgov/2017/08/09/trumps-supporters-worried-about-his-priorities-tired-of-tweets.

- markup plans in other committees with jurisdiction over the issue and potential legislative vehicles (discussed at "7.5. Markup Based on Sole, Primary, Additional Initial, or Sequential Referral");
- action taken or anticipated by a Senate committee or the Senate; and
- impending long recess or end of a congressional session, which can add pressure to act.

Any of these factors might contribute to favorable political timing for winning support for a legislative change of public policy. A chair can harness this momentum, enthusiasm, commitment, pressure, and support to create a winning strategy in committee and to generate momentum and enthusiasm in anticipation of House floor action.

6.2. Party Leadership Planning

Although the most senior majority-party leaders rarely serve on committees, they are intimately involved in working with each committee's chair to determine a panel's agenda and the proposed floor schedule for considering legislation favored by the chamber's and committee's leaderships.[53]

The majority-party leadership must coordinate the substantive work products and schedules of committees to plan the floor schedule for an entire Congress and for its two sessions. It must determine what legislation to consider during the first session and what to defer to the second session. It must also factor in presidential initiatives, those announced separately and as part of events such as inaugural and State of the Union addresses. The potential for a tumultuous election cycle, whether in a presidential year or a midterm year, factors into decisions on important legislation. Events such as hurricanes and snowstorms or the death of a former President can lead to the unexpected cancellation of House and committee meetings. District work periods also affect committee scheduling and subsequent floor time, and the duration of the House's weekly sessions and the number of votes that occur during a week can affect the scheduling and pace of committee action.

Majority-party leaders might want to move the highest-priority legislation in the first session, and might, for example, ask committee chairs with jurisdiction over that legislation to hold hearings early in the first session, to mark up after the August break, and be prepared for floor consideration in the fall. The second session can then carry a lighter legislative load and provide time to complete bicameral negotiations with the Senate over pending legislation. Conversely, the party leadership might prefer an agenda of popular, targeted bills and resolutions in the first session, with major legislation defining party differences receiving floor action in the second session, closer to election day. In any year, leaders must anticipate work on unfinished appropriations legislation in September and at other times after the start of the new fiscal year.[54]

[53] Both parties' leaders might or might not have committee assignments. Some leaders give up previous assignments to serve in their leadership posts, others take a leave of absence and continue to accrue seniority, and others continue their committee service. In some instances, leaders serve ex officio on committees, as the Speaker and minority leader do on the Intelligence Committee (Rule X, clause 11(a)(2)). Leaders might also be appointed to committees, as the majority and minority leaders and other leaders were appointed to the temporary Select Committee on Homeland Security in 2002.

[54] Leaders might also consider the timing of authorization legislation vis-à-vis appropriations legislation. For example, Congress each year attempts to coordinate its consideration of the defense authorization bill with its consideration of the defense appropriations bill so that decisions on authorizations can inform decisions to be made on appropriations.

Majority-party House leaders also work with committee leaders to coordinate work with the Senate, especially when the Senate is controlled by the same party. The decision of whether the House or Senate will act first on a specific legislative initiative—a decision made by party leaders—affects House committee schedules. The decision could require one or more committees in each chamber to work simultaneously, for one chamber to finish its work on the legislation before committee or committees of jurisdiction in the second chamber complete hearings or begin markup, or impose another arrangement. Sometimes simultaneous work in the two chambers' committees is promoted as a sign of momentum behind a legislative initiative, such as when committees in each chamber mark up simultaneously. At other times, simultaneous work is thought to be a distraction or as confusing public and media attention, such as when committee hearings are occurring in one chamber while committee markup is occurring in the other chamber.

6.3. Public and Media Attention

Chairs use hearings and markups to publicize issues and legislation and to attempt to generate public interest. Many committee meetings are now available for viewing in full on the internet or on C-SPAN, in addition to excerpts shown on news programs or reports appearing in all forms of media. Chairs and other committee members also speak before groups in Washington, DC, and around the country to generate interest and support by opinion leaders, stakeholders, and the public. Members speak on the House floor in legislative and nonlegislative debate to reach both the public and media who view the House in session. Reporters accredited by the congressional press galleries circulate throughout the Capitol and congressional office buildings; the press galleries in the Capitol and the ubiquitous presence of reporters provide committees and members with ready access to a vast number of news outlets. Committees and individual members employ media assistants to ensure a flow of information to the media and to develop and deploy a social media strategy.[55] Chairs and other members speak to individual reporters and boards of editors and conduct press conferences. If a chair is successful, public and media interest contributes momentum to legislation in markup and to its consideration by the House.

In contrast, local, national, or international events or public or media interest might precede committee interest, and public and media interest can reinforce each other. These events or interest might force an issue onto a committee's agenda and shape the way in which the committee responds. The 2007 *Washington Post* series on the experiences of the Armed Forces wounded members and their families at Walter Reed Army Medical Center transformed congressional interest in wounded veterans, spurred committees of jurisdiction to action, and arguably continue to still resonate in Members' perspectives on veterans' medical needs. Many years of public and media interest in missing, abducted, abused, and murdered children has continued to generate committee action resulting in new laws and appropriations to combat crimes against children. A presidential demand for action can prompt committee action, such as House committees' 2017 reporting of legislation in support of President Trump's initiatives on health care, regulatory changes, and taxes.

[55] See CRS Report R44509, *Social Media in Congress: The Impact of Electronic Media on Member Communications*, by Jacob R. Straus and Matthew E. Glassman; and CRS In Focus IF10299, *Linking with Constituents: Presentation of Social Media on Member of Congress Websites*, by Jacob R. Straus and Matthew E. Glassman.

6.4. Should Subcommittee Markup Precede Committee Markup?

Committees differ in their rules and practice regarding the role of subcommittees, as explained above. (See "3.1. Subcommittees.") When legislation is referred to a committee, some committees' rules require their chairs to refer it to a subcommittee, in some instances within a certain period of time and in some instances after consultation with the ranking minority member or subcommittee chairs. Some committee's rules disallow a referral until after a certain period of time has elapsed. Other committees' rules leave the decision to refer to legislation to subcommittee to the chair's discretion or provide a role for the full committee's decision. Some committees' rules specifically allow a chair to refer legislation to more than one subcommittee, to designate a primary subcommittee, and to set time limits on subcommittee consideration.[56]

In addition, there are motions to refer, commit, and recommit that might be made during committee markup, the effect of which if approved is to send the measure being marked up to subcommittee. These motions are explored at "12.2. To Commit or Recommit to a Subcommittee."

If a measure has been referred to subcommittee, many committees' rules provide a mechanism to discharge subcommittees from further consideration of a measure. Some rules allow a chair to discharge a measure from subcommittee, whereas others place that power in the committee or in the chair acting after authorization by the committee. Other committees' rules allow a chair to discharge a measure from a subcommittee after a certain period of time or, as mentioned, by setting a time limit on a subcommittee's consideration. A motion to discharge is also available, as discussed below at "12.3. To Discharge a Subcommittee."

When planning a markup, a committee chair must decide whether subcommittee markup will precede committee markup. Some committees' rules allow subcommittees to act only after consultation with the chair; some committees' rules allow subcommittees to act only with the permission of the chair. The chair might weigh a number of factors in deciding whether to have a subcommittee mark up a measure, including the following:

- Alignment of subcommittee on the public policy issue compared with full committee. If the alignment is favorable, the chair might choose to have the subcommittee mark up first and generate momentum for the legislation addressing the issue. If the alignment is unfavorable, for example, if some majority-party members oppose key aspects of the committee chair's favored legislation, the chair might forgo subcommittee markup rather than suffer potential defeat on key votes.[57]
- Subcommittee chair and members. A committee chair might be influenced by the makeup of a subcommittee in his or her decision to hold a markup in a subcommittee. If the subcommittee chair or members are strongly identified with the public policy issue or legislative solution, that factor might favor subcommittee markup. If the subcommittee chair or members are forceful advocates or adept in their use of procedure, that factor might favor

[56] Committees' requirements for their subcommittees are examined in CRS Report R41605, *House Standing Committees' Rules on Legislative Activities: Analysis of Rules in Effect in the 114th Congress*, by Michael L. Koempel and Judy Schneider.

[57] See, for example, the discussion of the policy views on a subcommittee in Avery Palmer, "House Democrats Mum on Energy Bill Details, but Markup Could Come Soon," *CQ Today*, vol. 45, no. 74, May 12, 2009, p. 3; and Avery Palmer, "Waxman Reaches Deal on Emissions," *CQ Today*, vol. 45, no. 75, May 13, 2009, pp. 1, 30.

subcommittee markup. If the full committee chair anticipates a need to play a mediating role between members of the majority party or with minority party members in the subsequent course of committee consideration of the legislation, that factor might favor having a subcommittee mark up legislation before the full committee does.

- A test of sentiment. A committee chair might have questions about political support for a legislative solution to the public policy issue and want to test sentiment in the narrow setting of a subcommittee before taking up legislation in the full committee. In subcommittee, the chair could learn how the legislative solution is viewed, what support and opposition exists among each party's members, the basis for that support and opposition, what arguments are made in debate, and what amendments are offered.
- Test votes. Similar to a test of sentiment, a committee chair might want to have test votes taken in the narrow setting of a subcommittee before taking up legislation in the full committee. The chair could plan majority-party amendments with the subcommittee chair or other majority-party members of the subcommittee, including amendments that test support for provisions that the chair might want to include in a measure to be marked up at the full committee and amendments that are anticipated to have bipartisan appeal. The chair could also learn what support there is for minority-party amendments.
- Committee review of subcommittee decisions. Although a chair might be inclined to have subcommittee markup precede committee markup for one or more of these reasons, he or she also considers support for the legislation at the committee level. If the chair anticipates that the subcommittee might adopt amendments inimical to majority-party policy goals, he or she might forgo subcommittee markup or, if the chair is confident of having the votes at the committee level to reverse the subcommittee's decisions, he or she might still proceed with a subcommittee markup.

Markup procedures described throughout this manual are the same whether a markup is conducted by a committee or a subcommittee. However, when a subcommittee completes a markup, it does not report its recommendations to the House but to its parent committee. Practice differs among committees on what mechanism a subcommittee uses to report its recommendations to its parent committee. Some committees require their subcommittees to provide legislative language and a document explaining subcommittee action, including recorded votes and possibly minority or other views. (See "14.4.3. Minority and Other Views.") Other committees require only a letter or email notification to the full committee chair that the subcommittee has finished its work. Some post-subcommittee actions might be dictated by the exigencies of the issue or a chair's plans for full committee markup. For example, a member, such as the subcommittee chair, might be asked to introduce the subcommittee's legislation as reported as a new bill or resolution. (See "14.3. Subcommittee Reporting," and **Appendix O**, Sample Script for Subcommittee Reporting.)

6.5. Legislative Vehicle

What to mark up is a key consideration in planning a markup. The options available to a committee are discussed extensively below at "7. Procedural Strategy and the Choice of a Markup Vehicle."

6.6. Chair Responsibilities: Markup and Floor

A decision to mark up legislation is concurrently a committee chair's commitment of a substantial amount of the chair's time to see that legislation through to enactment. The time the chair gives to this legislation is time he or she is forgoing in working for the enactment of other legislation or the possible conduct of oversight or investigations. The chair is committing to

- communicating substantively with his or her party's committee members, leadership, and, possibly, other Members on scheduling the markup and selecting the markup vehicle;
- communicating substantively with the ranking minority member on all aspects of the markup;
- planning the administrative details of the markup (see **Appendix B**);
- conducting the markup, which may take more than one day;
- seeking to win at least some minority-party support;
- writing the committee report;
- dealing with, mediating between, or advocating to White House officials, other executive branch officials, lobbyists, and others;
- working with the majority-party leadership on scheduling and the elements of floor consideration;
- planning a procedural strategy and testifying before the Rules Committee when the legislation is to be considered pursuant to a special rule;
- planning a legislative strategy and building support for the legislation;
- managing the legislation for the majority on the House floor;
- interacting with the Senate to encourage its action, and strategizing over which committee or chamber should act first (see "17. Considerations in a Two-House Strategy"); and
- working to reconcile differences between House- and Senate-passed legislation through amendments between the houses or conference.

Pursuant to House and committee rules and precedents, committee chairs have authority to schedule markups, select markup vehicles, and conduct markups. Committee chairs exercise this authority within limits imposed by their knowledge that their decisions can be overridden if those decisions thwart the will of a committee's majority-party members, and that chairs' service depends on retaining the support of their party's leadership and caucus or conference. Chairs, therefore, exercise their leadership and authority not only through decisionmaking but also by communicating regularly and substantively with their party's committee members, leadership, and other Members. A chair communicates with others before scheduling a specific markup and selecting a specific markup vehicle. (See "7. Procedural Strategy and the Choice of a Markup Vehicle.")

In chairing a markup, a chair not only makes decisions as discussed below but also often serves as the chief advocate for his or her party's position in debate on the markup vehicle and amendments. The customary role of the presiding officer in the House is to preside, neither offering amendments nor participating in debate. A committee chair, however, typically participates in debate and offers amendments. He or she regularly serves as the primary spokesman for or against amendments that are offered in a markup. (See also the assignment of roles to committee members at "6.6.1.1. Pre-Meeting Party Caucuses.")

The presiding officer of the House votes on amendments, motions and other matters, and final passage, and votes are taken electronically. In committees, chairs vote on amendments, motions and other matters, and reporting measures to the House, but votes in committees are taken by oral roll call. A committee chair may, therefore, make a tactical choice, either for all markups or on individual votes, of whether to vote first or last on recorded (roll-call) votes. (See the explanation of this choice at "13.1. Forms of Voting.")

In the immediately following four subsections of Considerations prior to a Markup, the role of a chair in scheduling and conducting markups and in House scheduling and consideration of legislation is highlighted: what the chair is committing his or her time to in marking up and seeking the subsequent enactment of a specific measure. Specific procedural actions that a chair might take or act on are introduced here, but they are examined in detail in the succeeding sections of the manual. These subsections contain cross references to the appropriate sections.

6.6.1. Scheduling Meetings and Setting an Agenda

Pursuant to Rule XI, clause 2(b), each committee establishes a regular meeting day, which must be not less frequent than monthly. The rule also allows committees to provide in their rules a method not to meet on a regular meeting day, and most committees authorize a chair to dispense with any meeting, including a regular meeting. Rule XI, clause 2(c)(1) authorizes chairs to call and convene additional or special meetings as a chair deems necessary. Most committees' rules grant this authority to the chair; some committees' rules require the chair to consult the ranking minority member in scheduling or cancelling a meeting. Most business in committees is conducted on days other than a regular meeting day, and, pursuant to authority included in clause 2(c)(1), committees' rules detail notice requirements for meetings. (See "3.2. Meetings," and "8.1. Notice.")

Rule XI, clause 2(b) is silent on the matter of who decides what business a committee conducts on its regular meeting day. Clause 2(c)(1), concerning additional and special meetings, strongly suggests that the decision is in the hands of the chair: a chair's authority to set an agenda is apparently derived from the chair's authority to call meetings. Clause 2(c)(1) also allows committees to adopt rules related to additional and special meetings, and many committees have a rule delegating meeting agendas to their chair.

Rule XI, clause 2(c)(2) provides a mechanism for a committee's members to call a meeting and determine its business. This allowance may be employed as a tactic of the minority, or of members having a minority policy viewpoint, in seeking action on an issue or measure. Even unsuccessful action in accord with this rule may prove suasive in obtaining an assurance from a chair to schedule the desired business at a future date. (See "3.2.2. Members' Initiative to Hold a Markup.")

In planning a markup, a chair considers the potential duration of debate and the amendment process, considering whether the markup can be completed in a part of one meeting or in one or more meetings. The chair considers the degree of agreement or disagreement between the majority and minority. An expectation of a short or single meeting based on a good degree of agreement might allow the chair to schedule a Thursday markup, anticipating that the committee will be able to meet with fewer competing committee markups and hearings and to finish its markup well before potential House floor votes conclude and members start leaving Washington for their districts. A chair might also expect a short or single meeting in the absence of agreement if the chair anticipates moving the previous question to bring the meeting to an early conclusion. An expectation that a markup might last late into the night or require more than one meeting might lead the chair to schedule a Tuesday or Wednesday markup.

For more contentious markups, a chair must also be concerned with the availability of the committee's majority-party members. Majority members serve on numerous committees, chair subcommittees of other committees, manage legislation on the House floor for other committees, and have duties to perform for the party leadership. If there are few other committees meeting or if other committees' meetings concern noncontentious matters, a chair might be confident that committee members will be available for the duration of a markup. Too few majority members present at a markup places a heavy load for debate on majority members who are present. The absence of majority members from a markup also leaves a vacuum that minority members could fill by offering amendments, and invites demands for votes, motions, and other actions by the minority that can disrupt the chair's plans for the markup.

In its procedural strategy related to debate and amendments in a markup, the minority might consider whether to cooperate with the chair's time frame. In that case, it might offer few amendments and keep debate short; could offer a number of amendments but keep debate to a minimum; or could choose to focus on just a few amendments but debate each one at length. Where the minority strongly dissents from the policy issue or the majority's legislative solution, it could still agree to a relatively short committee meeting, saving its debate and amendments for future House floor action. Or, the minority could use a strategy of numerous amendments or few amendments coupled with extensive debate to ensure its arguments are heard and to prolong a markup. It might choose numerous amendments when there are majority members who disfavor some or all of the chair's proposed legislative solution, potentially attracting votes for a policy majority different from a majority-party position. It might choose prolonged debate where it anticipates the majority-party leadership has a legislative solution different from what might emerge from committee, thus fully airing minority-party positions in committee where there is likely more time for debate than will be available on the House floor and more opportunity for influencing other members' and public views.

Each side might also adopt a strategy of wearing down the other side through amendments, debate, motions, and other action. A chair in this situation must lead a disciplined majority. The minority must decide when it has gained as much as it can politically or procedurally in policy debate and amendments.

Members in both parties might also consider how their debate and amendment strategy relates to anticipated floor action. Members of both parties know that the majority leadership, through the Rules Committee, will determine what legislative vehicle will come to the floor and what amendments will be allowed. A chair likely has in mind a "bottom line" on what to report from committee and when to report it. The minority in markup, where it disagrees, can probe to disrupt the chair's wishes. In contrast, the minority may have its own legislative solution. It likely hopes in that case to publicize and generate positive comment on its own approach. The majority will want to ensure that the minority's position is made known in markup and seek to rebut it in debate and votes on amendments.

6.6.1.1. Pre-Meeting Party Caucuses

Many committee chairs caucus with their party's committee members prior to a markup to discuss strategy. These discussions might cover amendment strategy; the assignment of roles in leading debate on certain issues; the assignment of parliamentary roles, such as which majority-party member will consistently reserve a point of order against any minority amendments; and so on. The minority conducts similar strategy meetings. Unless it can persuade a sufficient number of majority-party members to join in, however, a committee's minority-party members have little effective recourse when they object to what a chair has or has not scheduled for markup. The minority does have available motions, points of order, objections to unanimous consent requests,

parliamentary inquiries, amendment proposals, and debate in the course of a markup that still might further its goals for a markup. (See, for example, "8. Beginning a Markup.")

6.6.2. Maintaining Order and Decorum

Chairs are responsible for maintaining order and decorum in committee markups. The chair has authority to recognize members to debate, to offer amendments, to make motions and requests, or, as discussed immediately below, to make parliamentary inquiries or points of order.[58] A chair may determine that a member seeks to take an action that is not in order or that is improper or dilatory ("made with intent to delay").[59] The chair has authority to admonish members generally, or one member specifically, about maintaining decorum.[60] In exercising the authority and prerogatives available to a chair, the chair seeks to strike a balance between the responsibility of the majority to reach a conclusion and the right of the minority to be heard in the course of decisionmaking. (See also "9.9. Debate on Amendments.")

A chair is also empowered and required to maintain order on the dais and in the meeting room, including among the public and press, and to act on or punish breaches of order and decorum. Committees typically alert the Capitol Police to their meetings should their presence or assistance be needed.

6.6.2.1. Parliamentary Inquiries

A chair may recognize a member to make a parliamentary inquiry—a question about procedure on the pending matter. An inquiry might concern the order in which amendments are being offered, the schedule for voting on pending amendments, whether a specific motion is in order, or other specific procedural concerns. An inquiry may not concern a hypothetical situation or the interpretation or consistency of amendments. The chair has discretion to recognize members to pose a parliamentary inquiry, including declining to entertain an inquiry if the chair believes it is improper or repetitive. Responses to parliamentary inquiries are not rulings of the chair and are therefore not subject to appeal.[61] (See also "10. Parliamentary Inquiries.")

6.6.2.2. Points of Order, Dilatory Motions, and Appeals

Committee members might make points of order—a claim that a rule is being violated. A chair rules on a point of order and, subject to his or her discretion, first allows debate on it. If a chair is prepared to rule immediately on a point of order, debate on it need not take place because the purpose of debate is information for the chair. (See "11. Points of Order.")

In its applicability in committee, Rule XVI, clause 1 disallows a chair from entertaining a dilatory motion—one "made with intent to delay"—and by precedent leaves the determination of what is dilatory to the discretion of the chair. A chair might act on his or her own initiative or in response to a point of order.[62] (See "12. Motions.")

In many instances, a chair's decision may be appealed—a request that the committee vote to overturn the chair's decision. An appeal is debatable but subject to a motion to table, which is not

[58] *House Practice*, ch. 46, §§ 1-4, pp. 798-801.

[59] Ibid., § 3, p. 800, and ch. 32, § 4, p. 647, respectively.

[60] Ibid., ch. 16, § 26, p. 414.

[61] Ibid., ch. 37, §§ 13-14, pp. 690-692.

[62] Ibid., ch. 32, § 4, p. 647.

debatable. If a motion to table is agreed to, the motion adversely disposes of the appeal. Certain decisions of the chair, such as ruling actions out of order as dilatory, counting for a quorum, recognizing members, or indicating whether an action was timely, are not subject to appeal. The chair advises members of this fact if they inappropriately seek to appeal a decision.[63] (See "11.4. Appeal of the Chair's Ruling.")

6.6.3. Reporting Legislation

The final vote taken in a markup is often a vote to report (submit) a measure with the committee's recommended amendments to the House for the House's consideration. At this point, a measure's status is "ordered reported" by a committee. House Rule XIII, clause 2(a)(1) requires a written report to accompany legislation, and Rule XIII, clauses 2, 3, and 4 spell out the contents of reports on legislation. It is a chair's duty to have reports prepared and to file them with the House. Pursuant to Rule XIII, clause 2(b), a chair must report "promptly" to the House and take steps necessary to secure the reported measure's consideration.

Rule XIII, clause 2(b) further provides that, if a chair has not filed the report promptly, a majority of members of the committee may place a request with the committee's clerk. The chair then has seven days, excluding days when the House is not in session, to file the report in the House. (See "14. Reporting a Measure.")

6.6.4. Floor Consideration

After a committee votes to report a measure and before the chair adjourns the markup meeting, the chair often indicates to the committee what form of floor consideration he or she will be seeking. The committee chair has probably already begun consultations with the majority-party leadership about floor scheduling and the appropriate route to the floor, and he or she continues these discussions when a measure has been ordered reported. A measure might qualify to be considered under the suspension of the rules procedure. (See "16.1.2. Suspension of the Rules.") If the House will desire more time for debate than available under suspension of the rules and the possibility of considering floor amendments, which is not possible under suspension of the rules, then the chair will seek a special rule for the reported measure from the Rules Committee. In that case, with the leadership's support, the chair writes to the Rules Committee, perhaps with the support or co-signature of the ranking minority member, asking for a hearing on a special rule for the measure.

The committee chair is traditionally the first witness at a Rules Committee hearing, explaining the measure, the type of special rule desired concerning debate and amendments, a request for waiver of any points of order, and other components of the special rule. He or she may be accompanied by the ranking minority member, who might support the chair's request or testify on his or her own preferences for a special rule. At the hearing, the chair and ranking minority member answer questions from the Rules Committee members. (See "16.1.3. Special Rules.")

Once the Rules Committee reports a special rule, in the form of a simple House resolution, House consideration of the special rule and the legislation identified in it typically soon follow. The House must adopt the special rule before it can begin consideration of the legislation named in it pursuant to the ad hoc procedures contained in the special rule. The chair and ranking minority member may speak on the special rule, but the majority and minority floor managers from the Rules Committee control time.

[63] Ibid., ch. 3, pp. 66-69.

When the House takes up consideration of the measure, a committee or subcommittee chair serves as floor manager. A committee chair is likely to serve as floor manager of a measure being considered pursuant to a special rule. An Appropriations Committee subcommittee chair is likely to serve as floor manager of an appropriations bill that was marked up in his or her subcommittee. Subcommittee chairs, or even the original sponsor of a specific measure, are likely to serve as floor managers of legislation being considered pursuant to the suspension of the rules procedure.

As floor manager, a chair determines which majority-party members speak on the measure during the period set aside for general debate, for how long, and in what order; which members will speak in support of or in opposition to amendments that are offered on the floor; which members reserve, make, and speak on points of order; and members to whom the chair might delegate control of time on specific amendments. He or she manages the majority party's time. The chair is also usually responsible for determining which amendments will be decided by a recorded votes and which can be decided by voice vote, unless the minority asks for a recorded vote. The committee or subcommittee ranking minority member serves with the same responsibilities as floor manager for the minority party.

If a House-passed measure must be reconciled with a Senate-passed measure, the committee chair works with the party leadership to plan a process of amendments between the houses or a conference. The committee ranking minority member performs the same role for the minority leadership. A committee chair serves as chair of House conferees and may chair a conference. Post-passage actions are not explored in this manual.[64]

7. Procedural Strategy and the Choice of a Markup Vehicle

Perhaps the most important decision a chair makes in planning a markup is choosing what text the committee will mark up. The chair consults on policy goals and procedural means of achieving them with majority-party committee members, majority-party leadership, perhaps other Members of his or her party, possibly minority-party committee members who might support at least some of the majority's policy goals, and possibly others outside of Congress, such as Administration representatives and interest-group representatives. With policy and political considerations in mind, the chair plans procedural strategy, including a decision on the so-called markup vehicle.[65]

The vehicles examined in this part are normally available as options to a chair when a committee marks up legislation, subpoenas, resolutions of inquiry, committee orders or resolutions, committee rules, or other matters that a committee might consider in a markup meeting.

Three items need to be distinguished at this point:

1. the measure and other words appearing on the notice of the markup meeting provided to committee members;
2. the measure or other text called up (laid before the committee) once opening statements are completed at the markup; and

[64] For an examination of amendments between the houses and conference, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki.

[65] A *vehicle* in Congress is "another term for a legislative measure, in the sense that it is the means for conveying legislation through the legislative process." *Congressional Quarterly's American Congressional Dictionary*, p. 272.

3. the markup vehicle, which could be the same measure noticed, the same measure noticed and called up, or another text.

Notice was introduced above (see "3.2.3. Notice and Documents") and is examined more fully below (see "8.1. Notice"). Pursuant to authority contained in Rule XI, clause 2(c)(1), committees adopt a notice rule that states how far in advance of a markup meeting committee members will be notified of its occurrence and what will be the agenda at that meeting. (For an example of a notice, see **Figure 1**.)

As an agenda item, a notice might list an introduced measure: "To consider H.R. 123, a bill to…, and for other purposes." It could list a draft that has not yet been introduced: "To consider H.R. _____, a draft bill to…, and for other purposes." A notice could list an introduced measure but indicate that another measure could take its place: "To consider H.R. 123, a bill to…, or a related measure, and for other purposes."

When the markup meeting convenes and after opening statements are completed, the chair normally *calls up* (*lays before* the committee) as the committee's business the first measure listed on the agenda.[66] Words such as "and for other purposes" used in the notice, however, provide the chair with some flexibility. If H.R. 123 had been marked up in subcommittee, the chair could call up H.R. 123 as introduced or as reported to the full committee by the subcommittee. If the notice listed "or a related measure," the chair might call up H.R. 123 or a subsequent draft, perhaps the version of H.R. 123 reported from subcommittee but then introduced in the House. Pursuant to Rule XI, clause 2(g)(4), the chair must make the text to be marked up publicly available in electronic form at least 24 hours prior to the markup meeting.[67]

If the chair plans that members will mark up (offer amendments to) the measure he or she has called up, then this measure is in congressional argot the *markup vehicle*. From a policy perspective, the measure needs to address the policy issues that the chair wants the committee to consider—it is neither too narrow nor too broad in legislative scope; does not address matters beyond the aspects the chair wishes to address; and contains the desirable legislative solution to the policy issues. From a procedural perspective, the measure must address only subject matter within the committee's jurisdiction.

In contemporary House committee practice, however, the words "and for other purposes" usually indicate that a chair will first call up the named vehicle. At the next step of the markup process, when the measure is open for amendment, the chair, or another majority-party member with recognition by the chair, may immediately offer a full-text amendment, known procedurally as an amendment in the nature of a substitute. It strikes all of the text of the measure called up and inserts the text of the amendment. The number of the measure does not change.[68]

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[66] Some chairs call up a measure first and then proceed with opening statements.

[67] The section-by-section summary accompanying H.Res. 5 in the 112th Congress contained this explanation of text added to Rule XI, clause 2(g): "[I]f the committee is considering a committee print, or the chair of a committee intends to use an amendment in the nature of a substitute as the base text for purposes of further amendment, circulation of that text will satisfy this requirement." Rep. David Dreier, "Rules of the House," insert, *Congressional Record*, vol. 157, part 1 (January 5, 2011), p. 86.

[68] An amendment in the nature of a substitute begins with the words "strike all after the enacting clause and insert…." The enacting clause gives legal force and effect to a measure if passed by Congress and signed by the President or passed over his veto. It appears in italicized type before the text of a bill begins: *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled[.]* In a joint resolution, it is a resolving clause and reads: *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled[.]*

The markup vehicle in this instance is the amendment in the nature of a substitute. It almost completely blocks amendments from being offered to the underlying bill until the amendment in the nature of a substitute is disposed of, and, typically, once amendments to an amendment in the nature of a substitute are disposed of, a committee approves it. Because the underlying measure is now fully amended by the amendment in the nature of a substitute, no other amendments are in order. An amendment in the nature of a substitute as a markup vehicle is examined below in this section at "7.4. Amendment in the Nature of a Substitute" and more fully at "9.7. Amendment in the Nature of a Substitute."

The reader should keep in mind that the legislation noticed must be sufficiently comprehensive for the preferred amendment in the nature of a substitute to be germane so that the policy issues that the chair wishes to address may be addressed. Germaneness is explored in detail below at "11.5. Germaneness."

This section of the manual discusses four possible forms of markup vehicles: an introduced measure; a subcommittee-reported version of a measure, also often referred to as a committee print; a staff draft or chairman's mark; and an amendment in the nature of a substitute. This section examines each form and why it might be chosen as a markup vehicle. Each of these forms has a default amendment procedure, which is also introduced in this section. The amendment process, including alternatives to a default amendment procedure, is fully examined below in "9. Reading a Measure for Amendment."

The selection of a form of markup vehicle also has consequences for the steps to be taken in reporting a committee's recommendations to the House and the form those recommendations might take. The steps and options are introduced here, with reporting fully examined below in "14. Reporting a Measure."

The referral of a measure (sole, primary, initial additional, or sequential) might also influence the choice of a markup vehicle. That influence is examined below, at "7.5. Markup Based on Sole, Primary, Additional Initial, or Sequential Referral."

7.1. Introduced Measure

A chair may choose to mark up a measure as introduced by a committee member or by another House Member. From a policy perspective, the measure needs to address the policy issues that the chair wants the committee to consider.[69] In addition, the chair is likely to anticipate a high level of committee agreement over the legislation and anticipate few amendments, probably only ones on which there is likely to be broad agreement.

Using an introduced measure as both the legislation scheduled for consideration and the markup vehicle requires no special motion or unanimous consent. The chair notifies committee members that the vehicle for the markup will be the introduced measure, identifying the measure number; perhaps its popular name, official title, or subject matter; and, often, its original sponsor.

At the markup meeting, the chair calls up the measure. Once the measure is read or its reading dispensed with, the measure is again read for amendment. When a measure as introduced is selected as the markup vehicle, it is read for amendment by section (or, if so organized, by paragraph). Unanimous consent must be obtained to read the measure for amendment by another unit, such as title, or to make it open for amendment at any point. Each section can be amended in

[69] Markup when a measure has been referred to more than one committee is discussed at "7.5. Markup Based on Sole, Primary, Additional Initial, or Sequential Referral."

two degrees. If the measure is read by section, paragraph, or another unit, the amendment process may not be terminated until the last section, paragraph, or other unit has been read for amendment. (See "9.2. Options for Reading for Amendment.")

The measure would be reported to the House "with amendments" if amended.[70] (See "14.2. Options for Reporting Recommended Changes to the House.")

7.2. Subcommittee Version—Committee Print

A chair may choose for committee markup a measure or a legislative draft that has already been marked up by one of the committee's subcommittees. If a previously introduced measure is marked up, its principal sponsor may be the committee or subcommittee chair, a committee member, or another House Member. From a policy perspective, the measure as introduced, and likely as it will be marked up, addresses the policy issues and legislative solutions in the manner desired by the committee chair.

If a draft is marked up, it could be that a number of measures had been introduced, and the committee chair (or committee staff at the direction of the chair) prepared a draft drawing concepts and provisions from the introduced measures, the suggestions of other Members, and any earlier hearings that may have been held.[71] From a policy perspective, the draft as laid before the subcommittee, and likely as it will be marked up, addresses the policy issues and legislative solutions in the manner desired by the committee chair. This kind of draft is a staff draft or chairman's mark (discussed below). If first marked up in subcommittee, a draft could be handled in committee markup in the same manner as the subcommittee-reported version of a previously introduced measure.

When a subcommittee approves its version of a measure or draft and sends it to the full committee, the product is often printed and referred to as a "committee print."[72] The subcommittee's approval could take the form of formally reporting the measure or draft without change or with an amendment in the nature of a substitute or with amendments. The subcommittee could also informally recommend the actions taken in subcommittee or informally list the actions taken in subcommittee without formally reporting the measure or draft with amendments. (See "14.3. Subcommittee Reporting.")

7.2.1. Options for Action on Committee Print

A chair has options for committee consideration of the committee print. The chair could ignore it. If the chair has other priorities for the committee or learned from subcommittee markup that he or she does not want to pursue these policy issues, the chair does not need to take any action. Alternatively, the chair could schedule committee consideration of a different measure or draft.

[70] Alternately, the committee could choose to report a "clean bill," if a procedural advantage is perceived, incorporating the changes made to the measure in markup into a new measure that would be introduced, referred to the committee that conducted the markup, and automatically reported without change by that committee to the House. See "14.2.3. Clean Bill or Resolution."

[71] Lawyers in the Office of Legislative Counsel assigned to the committee or subject matter likely take the lead in drafting, working under the guidance of committee staff.

[72] There is not a uniform manner for a subcommittee to report to its parent committee. While some committees seek to have uniformity within their committee, reporting by subcommittees has taken the form of a letter, a committee print, a reprinted measure, and other documents. See "14.3. Subcommittee Reporting."

The chair could schedule the committee print for consideration, as discussed immediately below. If the chair wants the committee to consider the policy issues addressed in the committee print, but not with the policy decisions included in the committee print, he or she likely preserves this option by having the subcommittee make recommendations or list its actions rather than formally report the measure or draft. In that case, the chair could schedule consideration of the same measure or draft as it existed before subcommittee consideration.

When a subcommittee approves a measure or draft, the committee chair often asks that the subcommittee chair introduce that version as a new measure, which will then be referred to the committee. The committee chair then has the option of scheduling this new measure for committee markup. If the chair makes this decision, then the choice of a markup vehicle will be the introduced measure (discussed above) or an amendment in the nature of a substitute (discussed below).

7.2.2. Committee Print as Markup Vehicle

Assuming the committee print addresses the policy issues that the chair wishes to be addressed with legislative solutions the chair desires, and its subject matter is within the committee's jurisdiction, the chair may have the committee consider the committee print. No special motion or unanimous consent is required to schedule it for markup or use it as the markup vehicle. The chair notifies committee members that the committee print is to be marked up.

At the markup, the chair calls up the committee print. Once the committee print is read or its reading is dispensed with, the committee print is again read for amendment. A committee print is read for amendment by section (or, if so organized, by paragraph). Unanimous consent must be obtained to read it for amendment by another unit, such as title, or to make it open for amendment at any point. Each section can be amended in two degrees. If the committee print is read by section, paragraph, or another unit, the amendment process may not be terminated until the last section, paragraph, or other unit has been read for amendment. (See "9.2. Options for Reading for Amendment.")

If the subcommittee reported the measure or draft with an amendment in the nature of a substitute or with amendments, the amendments are pending in the full committee. The chair could have the committee vote on the amendments one-by-one, or vote on them en bloc after obtaining unanimous consent for en bloc consideration. Most often, however, the chair asks unanimous consent that the committee print "be considered as an original bill [or text] for the purpose of amendment," which incorporates the subcommittee's amendments into the measure or draft and allows all parts of the text to be amended in two degrees.[73] (See "9.8. Additional Procedural Considerations for Amendments.")

If a chair plans to make any unanimous consent request on treatment of the subcommittee's recommended amendments, he or she has obtained assurance in advance of the markup that no committee member will object to the request. If the chair is unable to obtain that assurance, he or she will probably pursue another route for considering the committee print in the form of one of the other markup vehicles.

[73] Sometimes, the phrase *base bill* or *base text* is used instead of the phrase *original bill* or *original text*. The important matters to understand are whether the individual using any of these terms intends that the text be amendable in two degrees; how the measure will be read for amendment; and when the previous question will be in order. See the House amendment tree at **Figure 3**. In this context, the phrase original bill or original text must be distinguished from a committee *originating* a measure. See "7.3.1. Original Measure."

Once the amendment process is completed, the committee could vote to report a measure "with an amendment" (for an amendment in the nature of a substitute, as discussed just below) or "with amendments" (for cut-and-bite amendments, see "14.2.2. Cut and Bite Amendments"). If a draft was marked up, it could be offered as an amendment in the nature of a substitute to a previously introduced bill, and the bill reported "with an amendment."[74] (See "14.2. Options for Reporting Recommended Changes to the House.")

7.2.3. Committee Print as Amendment in the Nature of a Substitute

If a chair anticipates being unable to obtain the unanimous consent that he or she desires or, more likely, wishes to have the committee consider the subcommittee's amendments with changes to them, the chair could schedule the measure as introduced (or draft as laid before the subcommittee), a new measure with changes approved in subcommittee introduced in the House by the subcommittee chair, or another introduced measure or draft for markup. After the measure is called up and opened for amendment, the subcommittee chair, or another member, could immediately offer the subcommittee-reported version with the committee chair's changes as an amendment in the nature of a substitute (as discussed below).

Once the amendment process is completed, the committee could vote to report the measure "with an amendment," in this instance the amendment in the nature of a substitute, or to report a clean bill.[75] (See "14.2. Options for Reporting Recommended Changes to the House.")

7.3 Staff Draft—Chairman's Mark

A chair may choose to mark up a draft of a measure. One option is for the full committee to mark up a draft that incorporates both changes made in subcommittee markup and additional changes negotiated by the chair or committee proponents after subcommittee markup but before full committee markup.[76] Committee members not on the subcommittee that marked up the measure are often consulted in these negotiations; party leaders and interested Members not serving on the committee may also be consulted. The product resulting from these negotiations is incorporated into a *committee print*, which might also be referred to as a *staff draft* or even a "discussion draft."

A variation of this process occurs when the chair prepares his or her own markup draft, typically with collaboration of majority members of the committee and perhaps with that of party leaders and interested majority Members not serving on the committee. This type of draft might be referred to as a *chairman's mark*, which the chair could schedule for markup and lay before the committee.

Proponents of legislative provisions that might be attached to a draft—whether inserting a new provision, keeping out or deleting a provision, or changing a provision—normally work to have the draft reflect the desired text because Members and staff generally believe that it is an easier legislative path than having to offer an amendment, defend it, and get majority support on a vote

[74] In either instance, the committee alternately could choose to report a *clean bill*, if a procedural advantage is perceived, incorporating the changes made to the measure in markup into a new measure that would be introduced, referred to the committee that conducted the markup, and automatically reported without change by that committee to the House. See "14.2.3. Clean Bill or Resolution."

[75] Ibid.

[76] Negotiations could be partisan or bipartisan. They could seek a balance or compromise between competing interests that cut across party lines. They could seek selective bipartisan buy-in.

on it in markup. Points of order may also be obviated. It is also usually easier to defend a provision included in a draft from an amendment to change or delete it.

Staff draft and chairman's mark are not precisely defined terms or concepts, except that they refer to a draft rather than to an introduced bill or resolution. They might be used interchangeably, or a document might be referred to first as a staff draft and later in the process of developing the draft as the chairman's mark. The number of participants in the preparation of either text might be large or small, depending on the judgment and decision of the chair. An amendment in the nature of a substitute might occasionally be referred to informally as a chairman's mark, but such a reference could confuse committee members and staff in their understanding of the chair's plans for markup and the procedures to be followed.

Staff drafts and chairmen's marks are usually circulated among majority-party committee members or all committee members.

The procedures for considering a staff draft or chairman's mark were described above, in "7.2. Subcommittee Version—Committee Print."

7.3.1. Original Measure

An original measure is one drafted in committee and introduced by the committee chair or another committee member *after being reported*. There are limited instances in which House committees may originate a measure, which are enumerated in Rule XIII, clause 5.[77] The limited instances include general appropriations bills reported by the Appropriations Committee, budget resolutions and reconciliation bills reported by the Budget Committee, committee funding resolutions reported by the House Administration Committee, and special rules reported by the Rules Committee.

Although the term chairman's mark is associated most strongly with the Budget Committee, the chairs of committees with authority to originate measures, or the chairs of Appropriations subcommittees, are typically the principal draftsmen of these original measures. An original measure may begin its development in a committee as a staff draft or chairman's mark, or be labeled a committee print or discussion draft.[78]

7.3.2. Managers' Amendment

Sometimes, a chairman's mark is confused with a *managers' amendment*, another procedural term that is not formally defined. A managers' amendment normally refers to an amendment to a markup vehicle; it is not typically the markup vehicle.

In one form of a managers' amendment, a committee's chair and ranking minority member might negotiate a package of amendments to the markup vehicle prior to or during a markup, comprising amendments accepted by both parties from members of both parties. In another form, the chair, alone or perhaps with named supporters, might offer a package of amendments.

[77] "Unlike a clean bill, [an original measure] is not referred back to the committee after introduction." *Congressional Quarterly's American Congressional Dictionary*, p. 167. For an explanation of reporting a "clean bill," see "14.2.3. Clean Bill or Resolution."

[78] The procedure of originating a measure or of reporting an original bill must be distinguished from amendment procedure where text is considered an original bill or original text for purpose of further amendment. See the footnote at "7.2.2. Committee Print as Markup Vehicle."

Such a package will presumably be agreed to by unanimous consent, although a vote is possible. If offered at the beginning of a markup, the chair normally asks unanimous consent that the changes included in a managers' amendment be considered as "original text" for the purpose of amendment or be made "part of the markup vehicle" for the purpose of amendment. Proceeding in this way allows other committee members to offer amendments to already amended text, a procedure that would otherwise be subject to a point of order.[79] A managers' amendment might also be offered by unanimous consent later in the amendment process. A managers' amendment could take the form of an amendment in the nature of a substitute.

7.4. Amendment in the Nature of a Substitute

In the contemporary House, an amendment in the nature of a substitute has become the preferred markup vehicle in committees when members want to offer, debate, and vote on amendments.[80] Procedurally, this choice of a markup vehicle provides a chair with more control over a markup than do the other options. By offering it, a chair precludes amendments to the underlying measure until the amendment in the nature of a substitute is disposed of. If any debate has occurred, it is in order to move the previous question at any time, the effect of which, if agreed to, is to end the amendment process and terminate debate. Agreeing to the motion brings the committee to a vote on the amendment in the nature of a substitute. If no debate has occurred, it is still in order to move the previous question. If it is agreed to under this circumstance, debate must first be allowed before the vote on the amendment in the nature of a substitute, but debate is limited to 40 minutes. (See "12.4. Previous Question.") Like any amendment, however, an amendment in the nature of a substitute must be read in full, unless reading is dispensed with by unanimous consent—no motion is available to dispense with the reading.

The procedural authority available to the chair and the ability of the minority to force the amendment's reading tend to bring the majority and minority to an agreement on an amendment process in a markup. The amendment in the nature of a substitute is examined in detail later in this manual (see "9.7. Amendment in the Nature of a Substitute").

An amendment in the nature of a substitute is normally prepared and offered by a committee chair. When an amendment in the nature of a substitute will serve as the markup text, the amendment must be made publicly available in electronic format at least 24 hours prior to the markup meeting.[81] As an amendment, an amendment in the nature of a substitute must be read before consideration, or its reading must be dispensed with by unanimous consent.

Proponents of legislative provisions that might be attached to the amendment—whether inserting a new provision, excluding or deleting a provision, or changing a provision—normally work to convince the chair to have the amendment reflect their desired text. Members and staff generally

[79] See "9.8.3. Amending Amended Text."

[80] An amendment in the nature of a substitute begins with the words "strike all after the enacting clause and insert…." The enacting clause gives legal force and effect to a measure if passed by Congress and signed by the President or passed over his veto. It appears in italicized type before the text of a bill begins: *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled[.]* In a joint resolution, it is a resolving clause and reads: *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled[.]*

[81] The section-by-section summary accompanying H.Res. 5 in the 112th Congress contained this explanation of text added to Rule XI, clause 2(g): "[I]f the committee is considering a committee print, or the chair of a committee intends to use an amendment in the nature of a substitute as the base text for purposes of further amendment, circulation of that text will satisfy this requirement." Rep. David Dreier, "Rules of the House," insert, *Congressional Record*, vol. 157, part 1 (January 5, 2011), p. 86.

believe that it is an easier legislative path to get text into an amendment in the nature of a substitute before it is offered than having to offer an amendment, defend it, and get majority support on a vote on it in markup. Points of order may also be obviated. It is also usually easier to defend a provision included in a draft from an amendment to change or delete it.[82]

When offered, the amendment in the nature of a substitute must be germane to the measure it seeks to amend. Therefore, a chair must take care that the measure noticed and called up accommodates the policy issues and legislative solutions he or she wishes to include in the amendment. Likewise, the chair must be certain that the amendment in the nature of a substitute as drafted is germane to the measure noticed and called up. (See "11.5. Germaneness.")

To employ an amendment in the nature of a substitute as the markup vehicle, a chair schedules an introduced bill or a draft for markup. Once the noticed measure (or draft) has been called up and read, or its reading dispensed with, the measure is read for amendment by section or paragraph. The clerk at the direction of the chair reports Section 1 as open for amendment, and the chair immediately offers the amendment in the nature of a substitute. It must be offered once the first section is open for amendment. (An amendment in the nature of a substitute may also be offered at the end of the amendment process, but that is uncommon.) The chair then asks unanimous consent to dispose of the amendment's reading. If unanimous consent is objected to, the amendment must be read, but the chair may renew the request to dispense with the reading. (See "9.3. Reading an Amendment.")

An amendment in the nature of a substitute is open for amendment at any point, although a committee could agree by unanimous consent to another procedure such as considering amendments on an amendment roster. (See "9.2.5. Amendment Roster.") An amendment in the nature of a substitute may be amended in only one degree, unless unanimous consent is granted to consider it as "original text" for the purpose of further amendment.[83] If an amendment in the nature of a substitute is not made original text for the purpose of amendment, only a perfecting amendment to it, a substitute amendment for it, and a perfecting amendment to the substitute amendment could be pending at one time. (Under House rules, a substitute is considered as if it were a first-degree amendment, see "9.5. Form, Scope, and Degree of Amendments.") Once an amendment is disposed of, another amendment may be offered. (See the House amendment tree at **Figure 3**).

Debate and proposed amending of the amendment in the nature of a substitute can continue until committee members have offered as many amendments as allowed by House rules and precedents. Alternatively, as explained, the amendment process may be terminated. At any time after debate has begun, the chair could entertain a motion for the previous question. If the motion is agreed to, debate and further amendment ends because an amendment in the nature of a substitute amends all parts of the measure being marked up.

After members have offered all their amendments and finished debate, or the motion for the previous question has been agreed to, a vote occurs on agreeing to the amendment in the nature of a substitute, as amended, if amended.

[82] Committee members nonetheless may forgo the advantages of having an amendment included in an amendment in the nature of a substitute in order to seek closer identification with a provision by offering it as an amendment during the markup.

[83] Sometimes, the phrase base bill or base text is used instead of the phrase original bill or original text. The important matters to understand are whether the individual using any of these terms intends that the text be amendable in two degrees; how the measure will be read for amendment; and when the previous question will be in order.

In contrast, if an amendment in the nature of a substitute has been made original text, then the measure so amended is by practice read by section, unless another procedure is agreed to by unanimous consent. With the amendment in the nature of a substitute made original text, members may then offer an amendment, a perfecting amendment to that amendment, a substitute for that amendment, and a perfecting amendment to the substitute amendment. (See "9.5. Form, Scope, and Degree of Amendments" and, at **Figure 3**, the House amendment tree.) The previous question is not available until the full measure has been read for amendment. After members have offered all their amendments and finished debate, a vote occurs on the measure as amended, if amendments in addition to the amendment in the nature of substitute were agreed to. (See "9.7. Amendment in the Nature of a Substitute.")

At the reporting stage, the committee may report the introduced bill with an amendment, in this instance an amendment in the nature of a substitute (a so-called committee substitute).[84] (See "14.2. Options for Reporting Recommended Changes to the House.")

7.5. Markup Based on Sole, Primary, Additional Initial, or Sequential Referral

One of the key issues facing a committee in determining the text to serve as the markup vehicle concerns a measure's referral to the committee: whether the panel received a sole referral, whether the panel received a primary referral with one or more panels receiving an additional initial or sequential referral, or whether the committee received an additional initial or sequential referral. (See "5. Referral of Legislation in the House.") If the committee received a sole referral of legislation, all of the options discussed above are available to the panel, and the suitability of each option can be weighed without consideration of other committees' jurisdiction or referral.

If a measure was referred to more than one committee, however, not all of the options above might be suitable for political or procedural reasons or both. A committee may be the primary committee, with it and other panels receiving a referral of matters within their jurisdiction, although these matters are not normally delineated in the referral language.[85] Although the primary panel could arguably consider all the issues within the legislation, the explicit language of the referral indicates that there are provisions that either are not within its jurisdiction or are overlapping with other committees. Accordingly, a primary panel rarely uses an introduced measure as the markup vehicle. Instead, the committee most often uses as the markup vehicle an amendment in the nature of a substitute that comprehends only those matters within the panel's jurisdiction.[86] It often makes this choice to preempt possible points of order based on committee jurisdiction or germaneness.[87]

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[84] Alternately, the committee could choose to report a clean bill, if a procedural advantage is perceived, incorporating the changes made to the measure in markup into a new measure that would be introduced, referred to the committee that conducted the markup, and automatically reported without change by that committee to the House. See "14.2.3. Clean Bill or Resolution."

[85] A split referral would designate the component portions of a measure, with each portion referred being identified. Such referrals have been used but are not common. *House Practice*, ch. 6, § 8, p. 173.

[86] A chair typically explains this purpose in opening remarks or in beginning debate on the amendment in the nature of a substitute.

[87] For example, measures addressing the Highway Trust Fund are referred primarily to the Committee on Transportation and Infrastructure and sequentially to the Committee on Ways and Means. The Transportation and Infrastructure Committee addresses policy issues, whereas the Ways and Means Committee considers revenue issues.

A different scenario presents itself for a committee that receives an additional initial referral or a sequential referral. These kinds of referral normally indicate that the committee's jurisdiction over a measure is limited in scope, compared with the jurisdiction of the committee designated as primary. A committee receiving one of these kinds of referral could mark up the introduced measure if there will be no or few amendments and if those amendments do not raise policy or jurisdictional concerns in other committees.[88]

A panel receiving one of these referrals, however, could choose to mark up an amendment in the nature of a substitute. It might make this choice to avoid jurisdictional issues, to give prominence to its jurisdiction or its contribution to the legislation, or for another reason. Even if the committee has few or noncontroversial amendments, it might choose an amendment in the nature of a substitute to assert its role in the policy area. For the same reasons, a committee might choose one of the other options for markup, ultimately converting that choice into an amendment in the nature of a substitute to the measure referred to the committee. Any of these choices would comprehend only those matters within the committee's jurisdiction.

Additional considerations might affect the choice of a markup vehicle by a committee receiving a sequential referral. If time was very limited and the primary committee's work product was not yet available, the committee receiving a sequential referral might choose to mark up the measure as introduced. Or, it could mark up an amendment in the nature of a substitute that amended just its portion of the measure. On occasion, a committee receiving a sequential referral has reported a clean bill limited to the portions of the measure over which it had jurisdiction. It could make this choice to ward off claims by other committees to overlapping jurisdiction to provisions in a comprehensive measure.

Alternatively, if the work product reported from the primary committee was available, the committee receiving a sequential referral could choose to mark up that version of the measure. The chair of the committee with a sequential referral could call up the measure as introduced and then offer an amendment in the nature of a substitute that consists of what the primary committee reported. The amendment in the nature of a substitute offered by the chair might also include additions favored by his or her committee, or the committee could add to the amendment in nature of a substitute with cut-and-bite amendments. The committee with a sequential referral is still limited to acting on only those items within its jurisdiction. This committee could then report an amendment in the nature of a substitute to the introduced measure, albeit different from what was reported by the primary committee.

The committee receiving a sequential referral might choose this approach to strengthen its role as the legislative process unfolds and its claim to referrals in the future. By integrating its changes into the work product of the primary committee, the committee with a sequential referral has better ensured that its views and jurisdiction will be considered as the reporting committees, the

[88] A committee receiving an additional initial or sequential referral could also be discharged without having taken action. A committee in this instance might choose in a letter to the chair of the primary committee to waive its consideration of the specific measure but indicate that this action does not constitute a waiver of its jurisdiction or its desire to be represented on any conference committee with the Senate. In a circumstance like this, the terms of the referral likely provide that a measure is referred to a committee for a set period of time or until a specific date, pursuant to the Speaker's authority in Rule XII, clause 2 to set a time limit. Once the time has expired, the committee is automatically discharged from further consideration of the measure.

(An automatic discharge occurring as a consequence of a time limit for consideration imposed in the referral by the Speaker must be distinguished from the discharge process where a discharge petition is filed with the clerk of the House and proponents seek to collect a sufficient number of signatures to take a measure away from a committee and bring it directly to the House floor. See "Discharge a Committee" in *Congressional Quarterly's American Congressional Dictionary*.)

Rules Committee, party leadership, or a combination of these actors seek to reconcile differences among committees and plan floor procedure for the markup vehicle and reported amendments. It also strengthens the committee's claim to representation on a conference committee or in other negotiations with the Senate subsequent to House floor action. If the measure is a comprehensive one addressing a policy area and becomes law, jurisdictional questions are likely to arise in the future in referring measures amending the law, and the committee that received a sequential referral can use its role and amendments to argue for primary, additional initial, or sequential referral of legislation proposed to amend the law.

If the primary committee does not report legislation that was referred in addition to other committees, and it is not discharged from further consideration (usually by the imposition of a time limit), the panels that received an additional initial referral may act but do not by practice report their versions of the measure. A committee with an additional initial referral could act, going so far as to order the reporting of a measure, attempt to influence the committee designated as primary, or expedite the stage of committee action by addressing the provisions in its jurisdiction. It will not, however, seek to its report the measure and its recommendations to the House.[89] Alternately, it could report a measure that addressed the issues in the referred measure over which it has jurisdiction.[90]

8. Beginning a Markup

Careful planning enhances the likelihood of a smooth commencement to a markup. Yet, chairs and committee members need to be attentive to the procedural opportunities that are available as a markup begins. A chair may seek with use of unanimous consent to move quickly through this element of a markup and could then get to the amendment process within a matter of minutes. Members whose purpose is to influence the course of a markup could object to unanimous consent requests and also make certain motions. Consensus in a committee over a policy issue and a legislative solution may obviate members' exercise of procedural options. Agreements between the majority and minority may preclude the invocation of some or many procedural options. A lack of agreement may indicate that majority and minority members will not only debate policy but also exercise procedural options. If there are strong policy differences within the majority, a chair might delay scheduling a markup to allow time to design a unifying strategy so as not to lose control of the markup.

[89] For example, H.R. 3200, America's Affordable Health Choices Act, was referred in the 111th Congress to the Energy and Commerce Committee and in addition to the Committees on Ways and Means, Education and Labor, Oversight and Government Reform, and Budget. Both the Ways and Means and Education and Labor Committees ordered H.R. 3200 reported on July 17, 2009. The Energy and Commerce Committee ordered H.R. 3200 reported July 31. On October 14, 2009, all three committees reported (H.Rept. 111-299, Parts 1, 2, and 3), and the Oversight and Government Reform and Budget Committees were discharged from further consideration of the measure. (Automatic discharge was distinguished from the discharge procedure in the preceding footnote.)

[90] In contrast to procedures in the 111th Congress, the House in the 115th Congress directed the Energy and Commerce and Ways and Means Committees to independently report health care legislation. The House and Senate agreed to reconciliation instructions in S.Con.Res. 3, the fiscal year 2017 concurrent resolution on the budget. These instructions directed the two House committees to each report changes to laws within their jurisdictions that would reduce the deficit by not less than $1 billion. The committees marked up separate draft bills, which they approved on March 9, 2017. They submitted their recommendations to the House Budget Committee, the procedure under the Congressional Budget Act (P.L. 93-344; 88 Stat. 297). The Budget Committee then combined the two drafts, without change, as required by the Budget Act, and reported an original bill, H.R. 1628 (H.Rept. 115-52), on March 16, 2017. For a succinct explanation of reconciliation, see CRS Report 98-814, *Budget Reconciliation Legislation: Development and Consideration*, by Bill Heniff Jr.

8.1. Notice

A committee or subcommittee meets pursuant to the notice sent to its members. Committee rules are adopted at the beginning of a Congress and normally indicate how far in advance notice must be given; such rules might have a longer notice under circumstances listed therein. For a committee with a typical three-day notice requirement in its rules that is planning a markup for 10 a.m. on a Wednesday, assuming the House is in session, committee members would need to receive notice of the meeting before the stroke of midnight on Monday.

A notice identifies the time and place of the markup and the measure or measures to be marked up. The notice might list one or more measures—bills, joint resolutions, concurrent resolutions, simple resolutions, or other versions of measures such as committee prints—in any order and in any combination. A notice might also list other matters that a committee marks up, including subpoenas, resolutions of inquiry, committee rules, and committee orders or resolutions. Some committees' rules call for more than the date and agenda, requiring, for example, distribution of amendments in the nature of a substitute, as now directed by House rule. (See "3.2.3. Notice and Documents.") Committees are normally scrupulous about adhering to their rules' notice requirements, and notice is not then a procedural issue as a markup commences.

If notice is not timely as provided in a committee's rules, members could challenge the meeting or specific agenda items. For example, a member could raise a point of order against the meeting as a violation of the committee's rules. (See "11. Points of Order.") Or, when the chair calls up a measure, a member could make one or more motions, such as to postpone or a question of consideration, or may seek to force the measure's reading (both of which are discussed just below). Although the majority with its votes may be able to defeat or deflect such challenges, the consequence could be a protracted meeting and possibly collateral challenges. (See "15.7. Consequences of Rules Violations in Markups and Committee Reports.")

Even if a chair has been vigilant in preparation for a markup, the chair could still preside over a protracted meeting if an extended markup meeting is part of the minority's strategy. If the minority wishes to tie up the committee or its members for as long as possible, the minority can object to unanimous consent, offer motions, and engage in other parliamentary delaying-tactics despite the knowledge that it will lose on votes.

Each measure to be considered at a markup should be identified in a notice. (See **Figure 1**, Sample Committee Markup Notice.) A notice might list an introduced measure: "To consider H.R. 123, a bill to…, and for other purposes." It could list a draft that has not yet been introduced: "To consider H.R. _____, a draft bill to…, and for other purposes." A notice could list an introduced measure but indicate that another measure could take its place: "To consider H.R. 123, a bill to…, or a related measure, and for other purposes."

Words such as "and for other purposes" used in a notice provide the chair with some flexibility. If H.R. 123 had been marked up in subcommittee, the chair could call up H.R. 123 as introduced or as reported to the full committee by the subcommittee. If the notice listed "or a related measure," the chair might call up H.R. 123 or a subsequent draft, perhaps the version of H.R. 123 reported from subcommittee but then introduced in the House and referred to the committee.

In contemporary House committee practice, the words "and for other purposes" most often indicate that a chair plans to offer an amendment in the nature of a substitute, which strikes all of the text of the measure called up and inserts the text of the amendment. Amendments in the nature of a substitute are examined at "9.7. Amendment in the Nature of a Substitute." Their use as a markup vehicle was discussed above, at "7.4. Amendment in the Nature of a Substitute."

The same procedural options that exist for a member objecting to a committee's failure to be timely in its notice exist when a chair attempts to call up a measure not listed on a notice.

Concerning the medium for notice, a number of committees have formally or informally changed to using electronic, rather than written, notice and have discontinued distributing copies of the bill(s) or resolution(s) being noticed. In the absence of a clear committee rule or a common understanding of what constitutes notice, and of a way of including an appropriate, agreed-on electronic link to legislation named in the notice, an informal procedure or an informal change in procedures could lead to procedural challenges as a chair seeks to begin a markup.

8.1.1. Unfinished Markup

Some markups are not completed in a day, and committees continue them the next day or days or at a later time. Some markups are begun, but chairs, on their own or in consultation with party leadership, decide to discontinue a markup.

First, a committee might not have concluded markup on the day the committee's consideration of a measure began. By long-standing tradition and pursuant to the chair's authority to recess a committee contained in Rule XI, clause 1(a)(2)(A)(i), committees may recess a day's session and continue on a succeeding or future day. Formal notice required by committee rules does not seem to be triggered under these circumstances. (Recess is discussed below at "12.5. To Recess.")

Under current practice, a chair oftentimes indicates before calling a recess the day and time on which a markup will resume. If a chair does not know when the markup will resume, he or she oftentimes indicates before calling a recess how many days or hours of notice will be given. Whether or not a chair makes a specific announcement at a markup meeting, the chair provides notice by email pursuant to what announcement he or she made before recessing. As with all or nearly all committee meetings, committee websites indicate whether a committee is in recess and when the next meeting will occur. Upon reconvening, the committee needs to establish a quorum.

A broader question on the authority of a committee to continue a markup concerns a markup that begins in one session of a Congress that a chair wishes to continue in the second session. Pursuant to Rule XI, clause 6, congressional business not concluded at the end of the first session of Congress may be resumed in the second session as if no adjournment had occurred. In addition, Rule XI, clause 2(m)(1)(A) authorizes committees to meet whether the House is in session, has recessed, or has adjourned.[91]

Second, a chair may wish to discontinue a markup. If a committee has not completed a markup, a committee member at the next meeting of the committee could arguably make a demand for regular order in an attempt to have the committee return to the markup. A committee could use a motion, such as a motion to table or a question of consideration, to terminate or defer further the markup.

[91] See also *Jefferson's Manual*, § LI, in *House Rules and Manual*, § 589, pp. 311-312.

Figure 1. Sample Committee Markup Notice

STEVE CHABOT, OHIO
CHAIRMAN

NYDIA M. VELAZQUEZ, NEW YORK
RANKING MEMBER

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

RESCHEDULED NOTICE

TO: Members, Committee on Small Business

FROM: Steve Chabot, Chairman

DATE: Monday, June 12, 2017

The Markup originally scheduled for Wednesday, June 7, 2017 on legislation to amend the Small Business Act and the Small Business Investment Act **is rescheduled for 10:00 A.M. on Thursday, June 15, 2017 in Room 2360 of the Rayburn House Office Building. The items that will be marked up include:**

- H.R. 2763, "Small Business Innovation Research and Small Business Technology Transfer Improvements Act of 2017;"
- H.R. 2594, "Small Business Payment for Performance Act of 2017;"
- H.R. 2333, "Small Business Investment Opportunity Act of 2017;"
- H.R. 2364, "Investing in Main Street Act of 2017;" and
- H.R. 2056, "Microloan Modernization Act of 2017."
- It is possible that an amendment(s) in the nature of a substitute or some other legislative vehicle will be provided Wednesday pursuant to the Committee's Rules.

Any Member wishing to submit an amendment for consideration should provide the amendment along with a 1-2 sentence factual description of the amendment no later than Wednesday, June 14, 2017 at 10:00 A.M., to the attention of Delia Barr, Committee Clerk (delia.barr@mail.house.gov). Members are encouraged to work with Legislative Counsel and Committee staff in drafting their amendments. While Members may file amendments, in writing, at any time prior to or during the markup, the Chair prefers that amendments be prefiled. This will enable all Members to have sufficient time to review the amendments. Please be aware that:

- Amendments filed prior to 10:00 A.M. on June 14, 2017 will be given priority consideration at the markup.
- The Chairman may refuse a unanimous consent request to consider the amendment as read if it is not filed before the 10:00 A.M. deadline on June 14, 2017.
- Amendments filed after the deadline may not be distributed to Members until the markup.
- Amendments drafted and offered after the commencement of the markup may necessitate the Chair recessing the markup to enable Committee staff to copy and distribute such amendments.

A staff briefing will be held at 2:00 P.M. on Monday, June 12, 2017 in Room 2360 of the Rayburn House Office Building.

If you have any questions, please contact Joe Hartz, Senior Professional Staff for the Committee, Vivian Ling, Counsel for the Committee, or Rob Yavor, Professional Staff for the Committee, at 5-5821.

Source: House Committee on Small Business.

8.2. Quorum and Call to Order

Before calling the committee or subcommittee to order, a chair on his or her own or on the advice of majority staff ensures (a) that a quorum is present and (b) that the number of majority members present exceeds the number of minority members present. So, for example, if a meeting is scheduled for 10:00 a.m., the chair might wait 10, 15, or more minutes while committee staff contacts majority members and the members arrive to ensure a quorum and that majority members outnumber minority members present. The quorum required to conduct business appears in the committee's rules adopted at the beginning of a Congress. (See "3.5. Quorum Requirements.")

If a quorum is not present, a member could raise a point of order against the meeting as a violation of House or committee rules. (See "11. Points of Order.") If minority members outnumber majority members when the chair calls the meeting to order, procedural motions requiring only a majority vote for adoption are available to members to stop, delay, or change the committee's or subcommittee's agenda. These motions are discussed just below.

Committee members seeking to delay or prolong committee proceedings, to take test votes, or to pursue another objective might still make motions that are in order, even if a quorum is present and majority members present outnumber minority members present. Proceedings might then be prolonged, but the majority should be able to win procedural motions.

Assuming a chair takes cognizance of these quorum issues, the chair may call the committee or subcommittee to order at any time after the time noticed for the meeting arrives. The chair normally taps a gavel on the dais and states, "The committee [subcommittee] shall come to order."

8.3. Opening Statements

Once a chair calls a committee to order, he or she might first specifically announce the purpose of the meeting or might start immediately to deliver an opening statement.[92] Upon finishing, the chair recognizes the ranking minority member for his or her opening statement. A chair's opening statement is often part explanation of the legislation to be marked up and part advocacy for the committee's ultimate approval of the legislation. A chair might also anticipate some of the contentious issues, if there are any, and express a perspective on them. The ranking minority member might express support for the legislation, highlight some aspects of the legislation he or she supports or does not support, succinctly explain one or more principal amendments the minority supports, discuss the minority's disagreement with the committee's consideration of the issue or the particular legislation, or advocate his or her perspective on the legislation; the ranking minority member might use an opening statement for more than one of these purposes. Once the ranking minority member concludes, a chair normally says something to the effect: "All other members of the committee [subcommittee] may submit written statements for the record."

A committee's rules adopted at the beginning of a Congress may restrict oral opening statements, often to those of only the chair and ranking minority member of the committee or subcommittee. Some committees' rules or practices might also allow oral opening statements for the relevant subcommittee chair and ranking minority member at a full-committee markup or for a full-committee chair and ranking minority member serving ex officio on a subcommittee. By rule,

[92] In some committees, chairs call up a measure to be marked up before opening statements begin. Discussion of the order in which opening statements occur and legislation is called up appear just below.

practice, or unanimous consent, other committee members are allowed to submit opening statements in writing for the record, but by unanimous consent some or all other members may be allowed to make oral opening statements. Thus, the sponsor of a measure to be marked up, who is a committee member, and a committee member of other party might each be recognized for an opening statement. Committees' rules may restrict oral opening statements to five minutes, although committees that allow more members than the chair and ranking minority member to make oral opening statements may restrict opening statements to less time, for example, three minutes. (See "3.3. Opening Statements.")

To maintain control of proceedings at this point, a chair may recognize himself or herself and the ranking minority member for opening statements *before* calling up a measure, or the first measure, to be marked up. Before a measure is called up, there is no debatable business before the committee or subcommittee, so that it is easy for the chair to enforce a committee rule restricting opening statements. Once a measure is called up, debate is in order. Therefore, if the chair and ranking member make their opening statements after a measure is called up, other members may seek recognition for debate and make the equivalent of an opening statement.

To call a committee (or subcommittee) to order and to begin with opening statements, a chair might proceed as follows:

> **Chair**: A quorum being present, the committee [subcommittee] shall come to order. We are meeting today to consider [bill number(s) and short or official title(s)].
>
> *Chair makes opening statement subject to any provisions in committee rules.*
>
> **Chair**: I now recognize the ranking minority member for his [her] opening statement.
>
> *Ranking minority member makes opening statement subject to any provisions in committee rules.*
>
> **Chair**: Pursuant to committee rules, members of the committee [subcommittee] may submit opening statements for the record.
>
> *Other committee members deliver or submit opening statements, pursuant to committee rules and any unanimous consent agreements or committee practices.*

(See also **Appendix C,** Sample Script for Opening Statements.)

8.4. Calling Up and Reading the Measure

After opening statements are completed, the chair calls up the measure or draft, or the first measure or draft, to be marked up.[93] If more than one measure was listed on the notice, the chair may proceed in an order he or she determines, although it is normally practical and a matter of comity for committee members to know in advance the order in which the committee will consider an agenda of two or more pieces of legislation. The chair calls up the measure and directs the clerk to report it.

House rules and precedent require a measure to be read in full, its first reading in committee.[94] House rules also allow a privileged, nondebatable motion to dispense with the first (full) reading

[93] Some chairs call up a measure first and then proceed with opening statements, as discussed immediately above.

[94] Rule XVIII, cl. 5(a) requires two readings in the Committee of the Whole, a first, full reading of a measure and a second reading of the measure for amendment. Rule XVI, cl. 8. Section XXVI of *Jefferson's Manual* requires two readings in committee, the second reading for amendment. *House Rules and Manual*, §§ 412-414, pp. 214-217, and § 792, pp. 560-561.

of a bill or resolution "if printed copies are available."[95] It has generally been understood that the copy of the measure distributed with the meeting notice satisfies the availability requirement.

In practice, once a clerk at the chair's direction has reported a measure—reading the measure's number and official title—the chair might say, "The bill [resolution] shall be considered as read." This statement is implicitly a request for unanimous consent to dispense with the required reading. Therefore, a member may object or reserve a right to object. (Unanimous consent is discussed just below.) If there is objection and printed copies of the measure are available, a member, presumably a majority-party member, may then make the privileged, nondebatable motion allowed by House rules to dispense with the first reading. A majority vote, a quorum being present, is required to adopt the motion if a member requests a recorded vote.

This procedure calls up the bill, resolution, or draft to be marked up by a committee. If a committee will use an amendment in the nature of a substitute as its markup vehicle, that amendment is called up after the bill or resolution has been called up, reading has occurred or been dispensed with, and any motions and requests have been decided. (See above "7. Procedural Strategy and the Choice of a Markup Vehicle" and below "9. Reading a Measure for Amendment.")

To call up a measure and deal with an objection to dispense with its reading, a chair might proceed as follows:

> **Chair**: I call up [bill number]. The clerk shall report.
>
> *The clerk reads the bill number and official title.*
>
> **Chair:** The bill was circulated in advance, pursuant to committee rules. Without objection, the first reading is dispensed with.
>
> **Member**: I object.
>
> **Another Member**: I move to dispense with the reading of the bill.
>
> **Chair**: The gentleman's motion is in order. The bill was available in advance pursuant to committee rules. The motion is not debatable. The question is: Shall the committee [subcommittee] dispense with the reading of [bill number]? All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the motion to dispense with the reading is agreed to.
>
> *A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*

Had the motion failed, or had unanimous consent not been obtained when the motion was not in order, the chair would direct the clerk to read the measure, and the clerk would read the measure in full. However, the chair or another member could repeatedly renew the request for unanimous consent to dispense with the reading at any time during the reading. If unanimous consent was not obtained, the chair would direct the clerk to continue to read the measure. If unanimous consent was obtained, the clerk would discontinue reading the measure, and debate on the measure could begin. (See also **Appendix D,** Sample Scripts for Calling Up and Reading a Measure.)

[95] Rule XI, cl. 1(a)(2)(A)(ii) and cl. 1(a)(2)(B). *Privilege* is defined thus: "An attribute of a motion, measure, report, question, or proposition that gives it priority status for consideration. That status may come from provisions of the Constitution, standing rules, precedents, or statutory rules." *Congressional Quarterly's American Congressional Dictionary*, p. 188.

8.5. Potential Motions as a Measure Is Called Up

When a measure has been called up by a chair and reported at the chair's direction by the clerk, a committee or subcommittee normally proceeds directly to reading the measure for amendment. (See "9. Reading a Measure for Amendment.") It is possible, however, for committee members to make one or more motions or points of order to attempt to stop, delay, or defer a markup, to test committee members' sentiment on the measure to be marked up, or for another purpose. Several potential points of order have been mentioned so far in this part, Beginning a Markup. A number of motions available at the beginning of or during a markup are discussed below, at "12. Motions." Members might also use parliamentary inquiries and objections to unanimous consent requests to extend the time consumed to begin a markup. (See "10. Parliamentary Inquiries," and the discussion immediately below of unanimous consent.)

Although committees or subcommittees normally proceed directly to reading a measure for amendment after the measure has been reported, committee members periodically make a motion to postpone to a day certain or to raise a question of consideration after the measure has been reported. Members might make other motions as well.[96] Although the majority with its votes may be able to defeat or deflect such challenges, the consequence could still be a protracted meeting. (See also **Appendix E,** Sample Scripts When Motions Are Made as a Markup Begins.)

8.5.1. Question of Consideration

Rule XVI, clause 3 allows a member to demand a question of consideration "[w]hen a motion or proposition is entertained." The question of consideration allows a member to discern whether a majority of the committee wishes to consider a measure at that time.

A member must raise a question of consideration immediately after the initial reading of a measure. It may be raised only once. The motion is not debatable. A point of order against consideration of the measure, such as for insufficient notice of the markup meeting under committee rules, or a challenge to dispensing with the reading of the measure would be raised before a demand for a question of consideration.[97] A member might raise a question of consideration as follows:

> **Chair**: I call up [bill or resolution number]. The clerk shall report [the title of] the legislation.
>
> *Committee clerk reads the number and official title of the legislation.*
>
> **Chair:** The bill [resolution] was circulated in advance, pursuant to committee rules, and shall be considered as read.
>
> **Member**: I raise a question of consideration.
>
> **Chair**: The gentlelady raises a question of consideration, which is not debatable. The question is: Does the committee [subcommittee] wish to consider [bill or resolution number]? All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the question of consideration is agreed to.

[96] In the notes to Rule XI, cl. 2(a), the parliamentarian commented: "Committees generally conduct their business under the five-minute rule but may employ the ordinary motions that are in order in the House, such as under clause 4 of rule XVI." *House Rules and Manual*, § 792, p. 561.

[97] *House Practice*, ch. 41, § 1, pp. 723-724.

> *A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*

Disagreeing to a question of consideration is not an adverse disposition of a measure; a committee, pursuant to notice under the committee's rules, could again schedule a markup of the legislation. An affirmative vote on a question of consideration is also subject to a motion to reconsider; a negative vote is not.[98] (See "13.3. Motion to Reconsider.")

8.5.2. Motion to Postpone

The motion to postpone may take one of two forms: to postpone indefinitely or to postpone to a day certain. The motions are listed under the precedence of motions in Rule XVI, clause 4. A member may move to postpone immediately after the initial reading of a measure.[99]

A motion to postpone indefinitely, if agreed to, constitutes the final adverse disposition of a measure. The motion is debatable but not amendable, and debate may include a discussion of the legislation in addition to arguments about postponement. It is subject to a motion to table and a motion for the previous question, both of which are nondebatable motions of a higher precedence. If agreed to, a motion to table adversely disposes of a motion to postpone. (See "12. Motions.") A motion to postpone to a day certain is also of a higher precedence to a motion to postpone indefinitely. It may, therefore, also be offered while a motion to postpone indefinitely is pending. Because a motion to postpone indefinitely is lowest among the precedence of motions, it is little used.[100]

A motion to postpone to a day certain, if agreed to, suspends consideration and establishes the day on which a committee will mark up the legislation to which the motion applies. The motion is debatable, and debate is confined to discussion of postponement. The motion is also amendable. Although the motion names a day, it may not name an hour. It is subject to a motion to table and the motion for the previous question, nondebatable motions of a higher order of precedence. If agreed to, a motion to table adversely disposes of the motion to postpone to a day certain. (See "12. Motions.") A vote on a motion to postpone to a day certain is also subject to a motion to reconsider.[101] (See "13.3. Motion to Reconsider.")

A member might make a motion to postpone as follows, with a proponent of the legislation before the committee likely to immediately move to table that motion:

> **Chair**: I call up [bill or resolution number]. The bill [resolution] was circulated in advance, pursuant to committee rules, and shall be considered as read. The clerk shall report the title of the legislation.
>
> *The clerk reads the bill number and official title.*
>
> **Member**: I move that consideration of [bill or resolution number] be postponed until a week from today.
>
> **Another Member**: I move to table the gentlelady's motion.

[98] Ibid., p. 724.

[99] Ibid., ch. 38, § 2, p. 696

[100] Ibid., §§ 6-8, pp. 699-700.

[101] Ibid., §§ 2-5, pp. 696-698.

Chair: The motion to table is in order and is not debatable. The question is: Shall the committee [subcommittee] table the motion to postpone? All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the motion to table is agreed to.

A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. By offering and agreeing to a motion to table, the committee [subcommittee] cuts off the possibility of amendment and of debate on a motion to postpone to a day certain, and adversely disposes of the motion to postpone.

8.6. Unanimous Consent

Throughout a markup, the chair and members will likely seek unanimous consent on numerous occasions to set aside House rules and precedents and committee rules. For example, House rules require that amendments be read. Members often ask unanimous consent that the reading of their amendment be dispensed with. A committee might also agree by unanimous consent to undo or redo an action it has taken, such as to modify an amendment previously agreed to. Unanimous consent may be employed to govern the consideration of a measure, customize the amendment process, approve a measure with recommended amendments, or take other actions that set aside House rules and precedents and committee rules.[102] In contrast to procedure on the House floor, however, a member does not typically need unanimous consent in committee to withdraw an amendment (see "9.8.7. Withdrawing an Amendment").

If a member asks unanimous consent that some action be taken, there are three possible outcomes. Another member or the chair may object, another member or the chair may reserve the right to object, or no member might object or reserve the right to object. Silence in response to a request for unanimous consent—the last option—is approval of the request.

First, if just one member objects to a unanimous consent request, unanimous consent is denied and the desired action is not allowed. (If unanimous consent cannot be obtained, a motion may be available in some instances to accomplish the same end—if the motion is agreed to.) Objection or a reservation is too late when the chair has asked if there is an objection and announced that he or she has heard none. A unanimous consent request may be withdrawn before action on it, and, once approved, may be modified or terminated only by agreeing to another unanimous consent request.[103]

Second, if a member reserves the right to object, that member may then pose a query or make a statement. For example, a member offering an amendment may ask unanimous consent to dispense with the reading. Another member might not be able to identify the amendment and reserve the right to object to obtain a clarification, for example, as follows:

Member: I have an amendment.

Chair: The clerk shall report the gentleman's amendment.

Clerk begins to read.

Member: I ask unanimous consent to dispense with the reading.

[102] Ibid., ch. 54, §§ 7-8, pp. 911-915.

[103] Ibid., §§ 1, 3-5, and 10, pp. 907-908, 909-911, and 917.

> **Another Member:** Reserving the right to object, Madam Chairman, would the gentleman please identify which of his amendments he is now offering? I yield to the gentleman.
>
> **Member:** It is the amendment labeled Smith No. 5.
>
> **The Other Member:** Further reserving the right to object, is this the amendment that the gentleman offered and then withdrew during the subcommittee's markup? I yield to the gentleman.
>
> **Member:** It is similar to that amendment, which I withdrew so that I could address some of the concerns raised during subcommittee discussion of the earlier amendment.
>
> **The Other Member:** I thank the gentleman. I withdraw my reservation.
>
> **Chair:** Is there objection to the gentleman's request to dispense with the reading of his amendment? Hearing none, the reading is dispensed with. The gentleman is recognized for five minutes on his amendment.

In this example, the member who reserved the right to object withdrew his reservation, and no member objected when the chair asked if there was an objection to the unanimous consent request. The member who reserved the right to object could have objected rather than withdraw the reservation, in which case the clerk would have continued to read the amendment. After the member withdrew his reservation, another member could have reserved the right to object or could have objected. As shown, members may yield to each other for discussion under a reservation.

Debate or discussion under a reservation occurs at the discretion of the chair,[104] or at the sufferance of a committee's other members. If a committee member wishes to return to the business that was suspended by a reservation of the right to object, the member can demand "regular order." If such a demand is made, the member who had reserved the right to object must immediately either withdraw the reservation or object, and the unanimous consent request must be disposed of immediately.[105] Proceedings might unfold as follows if a member demands the regular order:

> **Member:** I have an amendment.
>
> **Chair:** The clerk shall report the gentlelady's amendment.
>
> *Clerk begins to read.*
>
> **Member:** I ask unanimous consent to dispense with the reading.
>
> **Another Member:** Reserving the right to object, Madam Chairman, would be gentlelady please identify which of her amendments she is now offering? I yield to the gentlelady.
>
> **Member:** It is the amendment labeled Jones No. 4.
>
> **The Other Member:** Further reserving the right to object....
>
> **Third Member:** I demand regular order.
>
> **Chair:** Regular order is demanded. Does the member make an objection or withdraw his reservation?
>
> **The Other Member:** I withdraw my reservation.

[104] Ibid., § 6, p. 911.

[105] Ibid., § 5, pp. 910-911.

> **Chair:** Is there objection to the request to dispense with the reading? Hearing none, the reading is dispensed with. The gentlelady is recognized for five minutes on her amendment.

The third possible outcome is that no member objects to a unanimous consent request. In that event, the chair acknowledges the fact with words such as, "Without objection...." or "Hearing no objection…." The committee proceeds as proposed by the unanimous consent request.

8.6.1. Unanimous Consent Implied

In seeking to conduct a markup expeditiously, a chair might not specifically seek unanimous consent, but rather make statements in which unanimous consent is implied. For example, unanimous consent can be used to dispense with the reading of a bill and is required to dispense with the reading of a bill for amendment. It is also required to open a bill for amendment other than by section or by paragraph. A chair might say, "The bill shall be considered as read and as open for amendment at any point. Is there discussion of the bill?"

The chair did not specifically ask unanimous consent. A member wishing to object or wishing to reserve the right to object would need to be alert to recognize the implied unanimous consent request and make a timely response. To be timely in the instance of the example, a member would most likely need to talk over the chair when the chair begins to ask if there is discussion of the bill, saying "I object" or "Reserving the right to object...." The proceedings might unfold as follows:

> **Chair:** The bill shall be considered as read and open for amendment at any point. Is there....
>
> **Member:** Reserving the right to object, Madam Chairman.
>
> **Chair:** The gentlelady is recognized on her reservation.

9. Reading a Measure for Amendment

A principal purpose of a committee's or subcommittee's markup of a measure (or draft) is to consider potential amendments to the measure—adding, deleting, or changing provisions or even substituting a different text for the measure or draft being marked up.

As already explained, measures are read twice in committee. The first reading occurs at the time the chair calls up a measure. This reading is normally dispensed with by unanimous consent, and, if unanimous consent cannot be obtained, it is normally in order to dispense with this reading by motion. (See "8.4. Calling Up and Reading the Measure.") The second reading commences when the chair directs the clerk to report Section 1 or otherwise directs the clerk at the start of the amendment process.

Unless another procedure is agreed to by unanimous consent, a measure is read verbatim, one section at a time (or, if so organized, one paragraph at a time). Under this procedure, once members have finished offering amendments to the first section, or the section has been completely amended, the chair directs the clerk to report the second section, and members offer amendments to it. This section-by-section process continues until the last section of the measure has been reported and members have had the opportunity to offer amendments.[106]

[106] Rule XVIII, cl. 5(a) requires two readings in the Committee of the Whole, a first, full reading of a measure and a second reading of the measure for amendment. See also Rule XVI, cl. 8. In the notes to Rule XI, cl. 2(a), the (continued...)

An amendment or the amendments agreed to in a committee markup, if the marked-up measure is reported to the House, constitute a *recommendation* to the House. To amend a measure as recommended by a committee (including the Committee of the Whole), the House sitting as the House must agree to the committee's amendments.

As noted, how a committee or subcommittee conducts the amendment process largely reflects procedures used in the House as in the Committee of the Whole. (See "2. Introduction to House Committee Markup Procedures.") A committee's rules might contain additional markup procedures, and individual committees often develop other informal or customary markup practices. Not all procedures or practices are employed at every markup. The sense among Members, staff, and persons who follow and interact with Congress is that the level of formality and exercise of parliamentary options in a specific markup tends to reflect the level of contention over the measure being marked up and the issue or issues it concerns.

With the absence of the special-rule procedure available in the House that can limit debate and amendments, a committee markup bestows more power on minority committee members than minority Members typically exercise on the House floor. The majority committee members can presumably out-vote minority committee members on amendments and procedural motions, but the majority may be limited, by the specific markup procedures used and agreements made, in its ability to curtail debate, amendments, the duration of a markup, or the ability to expeditiously reach a conclusion. House rules and precedents that committees follow tend to favor the methodical consideration of a measure and of all amendments offered that comply with House rules. This circumstance can result in some cooperation between the majority and the minority in planning a markup, because each side may perceive having something to gain through cooperation or to lose where there is no agreement.

An amendment in the nature of a substitute is an amendment of broad procedural impact, the offering of which can alter the amendment process in a markup. Its offering preempts further reading of the measure or draft for amendment until the amendment in the nature of a substitute is disposed of. If an amendment in the nature of a substitute is adopted, the amendment process is ended because all parts of the measure or draft have been amended. (See "9.7. Amendment in the Nature of a Substitute.")

9.1. General Debate

No period of general debate automatically occurs before a measure is read for amendment. A member may seek recognition to debate or discuss a measure for five minutes as soon as it has been read, but a chair may exercise his or her discretion to recognize the member. General debate is a feature of the Committee of the Whole but not of the House as in the Committee of the Whole, the set of procedures that generally pertain to committee markups.[107] (See also "9.9. Debate on Amendments.") To the extent, however, that committee rules or an ad hoc agreement allow members' opening statements, those statements could serve as a type of general debate.

(...continued)

parliamentarian comments: "A measure before a committee for consideration must be read for amendment by section as in the House...." (This note cross references *Jefferson's Manual* at §§ 412-414.) *House Rules and Manual*, § 792, p. 561. Section XXVI of *Jefferson's Manual* requires two readings in committee, the second reading for amendment. *House Rules and Manual*, §§ 412-414, pp. 214-217. If a measure is organized by paragraphs rather than sections, then the measure will be read for amendment by paragraph. Ibid.

[107] *Jefferson's Manual*, § XXX, in *House Rules and Manual*, § 424, pp. 223-224; and *House Practice*, ch. 12, § 1, p. 307; ch. 16, § 8, p. 393; and ch. 16, § 47, p. 435.

9.2. Options for Reading for Amendment

Once a measure or draft has been read (first reading), or its reading has been dispensed with, the amendment process may begin. Unless a committee or subcommittee agrees by unanimous consent to read a measure for amendment (second reading) under a different procedure, a committee must read the measure (1) verbatim and (2), depending on its organization, by section or by paragraph.

Committees often dispense with the verbatim reading of each section of a measure by unanimous consent. As a committee completes the amending process for one section, the chair directs the clerk to report or designate the next section, which indicates to the committee that next section is now open to amendment. The clerk reports only the section number. (The differences between reporting, reading, and designating are discussed immediately below.)

If the chair obtains unanimous consent to use an amendment process other than reading for amendment by section or paragraph, the committee then follows that amendment process. Other amendment processes include amendment by title if there are titles (or by another unit of the measure), amendment at any point, and an amendment roster. A committee by unanimous consent could also agree to other amendment processes, such as considering titles in an order other than numerically. There is no motion to permit a different process. (See also **Appendix F,** Sample Scripts for Options for Reading a Measure for Amendment.)

However a committee agrees to read a measure for amendment, if an amendment in the nature of a substitute is offered first, it becomes the markup vehicle, is open for amendment at any point, and, if agreed to, terminates the amendment process, as explained below. (See "9.7. Amendment in the Nature of a Substitute" and also "7.4. Amendment in the Nature of a Substitute.")

9.2.1. Reporting, Reading, or Designating a Section or Other Unit

When reading a measure for amendment, a committee or subcommittee usually decides whether to read each section or other unit verbatim, which is required, or whether by unanimous consent to dispense with that verbatim reading. A chair could, after the measure has been read the first time or the reading dispensed with, ask unanimous consent that the reading of the measure for amendment or the reading of one or more sections (or other unit) for amendment be waived. The chair would then direct the clerk to report or designate each section or unit before the committee begins debate and consideration of amendments to the section. The clerk would not read a section, but only say, for example, "Section 2."

The terms used by a chair to have a clerk report a section or other unit can differ between committees, but the purpose and outcome are the same with the words the chair uses. A chair may direct a clerk to "report" a section. If a committee *has not agreed* to dispense with the reading of sections or units for amendment, then the clerk reads the section or unit in its entirety. If a committee *has agreed* to dispense with the reading of sections or units, then the clerk reads only the section or unit designation, such as "Section 2" or "Title III."

In some committees, the chair might be specific in directing the clerk, saying, "The clerk shall read the next section," when reading has *not* been dispensed with. Or, the chair might say, "The clerk shall designate the next section," when reading has been dispensed with.

9.2.2. Reading for Amendment by Section

As just explained, a measure in a committee markup is read for amendment by section or paragraph, unless another process is agreed to by unanimous consent. This form of reading for

amendment applies to markup vehicles that are introduced bills and resolutions, committee prints, and chairman's marks or staff drafts. (See "7. Procedural Strategy and the Choice of a Markup Vehicle.") Into the 1990s, reading by section was the favored practice, and the markup of an important bill or of a set of bills could occur over the course of several days during several weeks. Today, reading for amendment by section has fallen out of favor, and markups are regularly conducted within the course of a single meeting. Therefore, for an important bill or for several bills on an agenda, this meeting can run many hours, even overnight.[108] (See "9.7. Amendment in the Nature of a Substitute," which in the contemporary House is the favored markup vehicle.)

A committee might still read a measure for amendment by section if the measure is just a few pages in length and widely supported in committee; amendments are few, noncontroversial, discrete, or technical; issues dividing committee members are confined to a single section or small number of closely related sections; and debate is likely to be succinct. A chair is likely to choose another alternative if a measure is lengthy, amendments are potentially numerous, and debate could be protracted. The procedural disadvantage for the majority of reading for amendment by section is that the markup cannot be ended without unanimous consent until every section has been read for amendment; this might be a procedural advantage for the minority.[109]

When a measure or draft is read by section or paragraph, a chair directs the clerk to read the first section verbatim. When the committee completes the amendment process for the first section, the chair directs the clerk to read the second section verbatim.

Alternatively, as the clerk begins to read a section, a chair could ask unanimous consent that the section be considered as read. If there is not unanimous consent to dispense with the reading, the clerk will be directed to read the section verbatim before members may offer amendments. Before a chair directs the clerk to read the first section or paragraph for amendment, he or she could alternatively ask unanimous consent that reading of the measure for amendment be dispensed with. If unanimous consent is obtained, the clerk would designate the first section when directed and, when directed, each succeeding section. Or, before or after the clerk is directed to read any section or paragraph, a chair could ask unanimous consent to dispense with reading of that section and some number of succeeding sections. If unanimous consent is obtained, the clerk would designate each section when directed by the chair to report a section. (See **Appendix I**. Sample Scripts for Selected Motions and Requests in the Amendment Process.)

Once a section is read verbatim or designated, members offer, debate, and vote on amendments to it. A section remains open for amendment until debate ends; members stop offering amendments; the section has been amended in its entirely, in which event further amendments are not in order under House precedents; or the committee is in the process of offering amendments to a subsequent section, in which instance a member would need unanimous consent to offer an amendment to the earlier section. The amendment process continues until all sections of the measure have been read.

A committee or subcommittee could also adopt a motion to limit debate on an amendment or on a section open for amendment. Adoption of this motion does not end the amendment process

[108] Nonetheless, for lengthy or complex legislation, a markup might run past midnight or even overnight and into the next day. See, for example, Joe Williams, "Panel Completes Marathon Markup of Health Care Bill," *CQ Roll Call*, March 8, 2017, available at http://www.cq.com/doc/committees-20170308364628?5&search=ZshWtsDv.

[109] When an amendment in the nature of a substitute is offered as the first amendment, the amendment process at a markup takes place in relation to it. For procedures when an amendment in the nature of a substitute is offered, see below "9.7. Amendment in the Nature of a Substitute."

related to an amendment or to a section—amendments may continue to be offered—but adoption of the motion to limit debate curtails any debate on an amendment offered after the agreed-on time limit has been reached. (See "9.9.3. Limiting or Closing Debate.")

Only amendments to a section open to amendment are timely. Members may not, in the absence of a specific grant of unanimous consent for that purpose, offer an amendment to a section that was previously open to amendment or to a section that has not yet been reported.[110] A member might seek to offer an amendment to a section open to amendment and to one or more subsequent sections by obtaining unanimous consent to offer amendments en bloc. (See "9.8.5. En Bloc Amendments.")

To initiate a section-by-section amendment process, a chair might proceed as follows:

> **Chair**: The bill [resolution] is now open for amendment. The clerk shall read [or report] Section 1 of the bill [resolution].
>
> *Committee clerk begins to read Section 1 in its entirety. Unanimous consent is needed to dispense with reading a section, several sections, or all sections of a measure.*
>
> or
>
> **Chair:** The bill [resolution] is now open for amendment. Without objection, the bill [resolution] shall be considered as read for amendment. The clerk shall designate [or report] Section 1.
>
> *Clerk designates Section 1.*
>
> **Chair**: Is there an amendment to Section 1? [or, Is there discussion of Section 1?]

As said, if a committee is reading for amendment by section, the amendment process may not be terminated until the last section of the measure has been read for amendment. Although a committee could expedite its proceedings through unanimous consent or the adoption of motions to limit debate, it is not in order for a member to offer a motion for the previous question on the measure until the last section has been read for amendment. The previous question, if agreed to, would terminate further debate and amendment. (See "12.4. Previous Question." An amendment in the nature of a substitute, once agreed to, also precludes the section-by-section amendment process. See "9.7. Amendment in the Nature of a Substitute.")

9.2.3. Reading for Amendment by Title or Another Unit

If a measure is organized by title (or contains other units), then opening the measure to amendment by title (or by another unit) is an option.[111] The chair might choose this option because of the length and structure of the measure; the number and form of amendments anticipated; the structure, coherence, or subject matter of the units; or for other reasons, such as expediting the amendment process. A procedural advantage in more readily completing a markup possibly exists in tackling larger portions of a measure than individual sections. A procedural

[110] *House Practice*, ch. 2, §§ 15-17, pp. 32-34.

[111] Sections or, in measures such as appropriations bills, paragraphs are basic organizational units for legislation. Superior headings—those units in which sections or paragraphs are clustered—are title, subtitle, part, subpart, chapter, and subchapter. Inferior headings—subunits of sections and paragraphs—are subsection, subparagraph, clause, and subclause. In a measure with sections, paragraph and subparagraph are also inferior headings to the section. See Lawrence E. Filson and Sandra L. Strokoff, *The Legislative Drafter's Desk Reference*, 2nd ed. (Washington, DC: CQ Press, 2008), pp. 480-495; and Tobias A. Dorsey, *Legislative Drafter's Deskbook: A Practical Guide* (Alexandria, VA: TheCapitol.Net, 2006), pp. 207-220. (Hereinafter Filson and Strokoff, *The Legislative Drafter's Desk Reference*; and Dorsey, *Legislative Drafter's Deskbook*.)

disadvantage for the majority is that the markup cannot be ended without unanimous consent until every title has been read for amendment; this might be a procedural advantage for the minority. As already mentioned, opening a markup vehicle in the form of an introduced bill or resolution, committee print, or chairman's mark or staff draft for amendment by title or another unit requires unanimous consent.

On occasion, a committee might agree by unanimous consent to read a bill for amendment by title, but in addition agree to read one title by section. Such as decision might have to do with the legislative topics included in the title, the law or laws to be amended by the title, the complexity of the subject matter of the title, the number of amendments committee members wish to offer, or other reasons.

When a measure or draft is read by title, a chair directs the clerk to read the first title verbatim. When the committee completes the amendment process for the first title, the chair directs the clerk to read the second title verbatim. It is more likely, however, that a chair would seek unanimous consent to dispense with reading each title, in the same manner for dispensing with reading as described immediately above in "9.2.2. Reading for Amendment by Section."

Once a title is read verbatim or designated, members offer and vote on amendments to it. A title remains open for amendment until members quit debating; stop offering amendments; the title has been amended in its entirely, in which event further amendments are not in order under House precedents; or the committee is in the process of offering amendments to a subsequent title, in which instance a member would need unanimous consent to offer an amendment to an earlier title. The amendment process continues until all titles of the measure have been read or reported.

A committee or subcommittee could also adopt a motion to limit debate on an amendment or on a title open for amendment. Adoption of this motion does not end the amendment process related to an amendment or to a section—amendments may continue to be offered—but adoption of the motion to limit debate curtails any debate on an amendment offered after the agreed-on time limit has been reached. (See "9.9.3. Limiting or Closing Debate.")

Only amendments to the title open to amendment are timely. Members may not, in the absence of a specific grant of unanimous consent for that purpose, offer an amendment to a title that was previously open to amendment or to a title that has not yet been reported.[112] A member might seek to offer an amendment to a title open to amendment and to one or more subsequent titles by obtaining unanimous consent to offer amendments en bloc. (See "9.8.5. En Bloc Amendments.")

To initiate the amendment process for reading by title, a chair might proceed as follows:

> **Chair:** The bill is now open for amendment. Without objection, the bill shall be open for amendment by title.
>
> *Unless there is objection, the bill will now be read by title rather than by section.*
>
> **Chair:** The clerk shall read title I of the bill.
>
> *Committee clerk begins to read title I in its entirety. Unanimous consent is needed to dispense with reading a title, several title, or all titles.*
>
> **Chair:** Is there an amendment to title I? [or, Is there discussion of title I?]

Alternatively, the chair might proceed as follows:

[112] *House Practice*, ch. 2, §§ 15-17, pp. 32-34.

> **Chair:** The bill is now open for amendment. Without objection, the bill shall be open for amendment by title and each title shall be considered as read. The clerk shall designate [or report] title I of the bill.
>
> *Committee clerk designates title I.*
>
> **Chair:** Is there an amendment to title I? [or, Is there discussion of title I?]

As said, if a committee is proceeding by title, the amendment process may not be terminated until the last title of the measure has been read for amendment. While a committee could expedite its proceedings through unanimous consent or adoption of motions to limit debate, it is not in order for a member to offer a motion for the previous question on the measure until the last title has been read for amendment. The previous question, if agreed to, would terminate further debate and amendment. (See "12.4. Previous Question." An amendment in the nature of a substitute, once agreed to, also ends a title-by-title amendment process. See "9.7. Amendment in the Nature of a Substitute.")

9.2.4. Open to Amendment at Any Point

A chair might want to dispense with reading a measure and open it to amendment at any point. If a committee agrees to open a measure to amendment at any point, amendments may be offered in any order, with, for example, an amendment to Section 7 being offered before an amendment to Section 3 is offered, which might be followed by an amendment being offered to any other section. Again, unanimous consent is needed to read a markup vehicle in the form of an introduced bill or resolution, committee print, or chairman's mark or staff draft as open to amendment at any point.

A chair might choose this amendment process if a measure is relatively short, if few amendments are anticipated, or, as is often the case, if an amendment roster to be used lists amendments in an order other than by a measure's section, title, or other unit. (Amendment rosters are explained immediately below.) A chair might also use this procedure if a measure is noncontroversial. A committee could also agree by unanimous consent to an amendment process to accompany opening the measure to amendment at any point, such as one limiting amendments but considering them in a different order from how the measure is organized.

On occasion, a committee might begin considering amendments section-by-section. Once major amendments have been debated and voted on, the committee might agree by unanimous consent to open the measure or the remainder of the measure to amendment at any point.

A procedural advantage for the majority, and potentially a procedural disadvantage for the minority, when a measure is open to amendment at any point is that debate and the amendment process, after the briefest period of debate, can be terminated at any time and the committee brought to a vote on the measure. A chair might choose to open a measure to amendment at any point if he or she wants to be able to move the previous question without having to read every section of a measure before the previous question can be moved. If a committee is considering a measure open to amendment at any point, it is in order for a member to offer a motion for the previous question at any point after debate has begun because the whole measure has been read for amendment.[113] If agreed to, the previous question terminates further debate and amendment. The chair in this instance might wish to be able to speed up a markup, preempt amendments, or achieve another purpose. (See "12.4. Previous Question.")

[113] If a motion for the previous question is made and ordered before debate begins, 40 minutes of debate must be allowed. Rule XIX, cl. 1(a). See also "12.4. Previous Question."

Individual committee members could also be disadvantaged where a measure is open for amendment at any point. Adoption of a motion to strike a section or adoption of a motion to completely amend a second could preclude a member, not present at the time such an amendment was adopted, from later offering an amendment to one of those sections. (See, for example, "9.6.4.1. Motion to Strike an Entire Section" and "9.8.3. Amending Amended Text.")

A committee could also expedite its proceedings through unanimous consent or adoption of motions to limit debate. A member could offer a motion to limit debate on an amendment or on the entire measure. Adoption of this motion does not end the amendment process related to an amendment or to a section—amendments may continue to be offered—but adoption of the motion to limit debate curtails any debate on an amendment offered after the agreed-on time limit has been reached. (See "9.9.3. Limiting or Closing Debate.")

If a committee has agreed by unanimous consent to open a measure to amendment at any point and has also agreed to use an amendment roster, the unanimous consent agreement normally limits or curtails use of a motion to close debate on the measure or to offer the previous question motion, as explained immediately below.

To initiate opening a measure to amendment at any point, a chair might proceed as follows:

> **Chair**: The bill is now open for amendment. Without objection, the bill shall be considered as read for amendment and be open for amendment at any point.
>
> **Chair**: Is there an amendment to the bill? [or, Is there discussion of the bill?]

9.2.4.1. Single-Section Bill or Resolution

By its drafting, a single-section bill or resolution is open for amendment at any point, unless the committee agrees by unanimous consent to another procedure. A single-section measure could be short. Alternately, it could be long—many pages, subsections, or paragraphs. It could be noncontroversial or embody important changes in law that could be vigorously debated. Committees sometimes use a single-section measure that contains important changes because it will be open for amendment at any point, allowing the committee to conclude the amendment process at a point or time desired by the chair and a majority of the committee.

9.2.5. Amendment Roster

Some committees occasionally or even regularly use an *amendment roster* to govern the amendment process. Such a roster is typically a list of first-degree amendments that may be offered during a markup, usually in the order listed. A roster allows all committee members to have notice of all or most first-degree amendments that might be offered in a markup. (See "9.5.3. Degree.") For both the majority and minority, an amendment roster introduces a degree of predictability into a markup, but, if comprehensive, curtails any desired element of surprise that a member might wish to have in offering an amendment or spontaneity in offering as an amendment a proposal that occurred to a member in the course of the markup.

A chair must obtain unanimous consent for an amendment roster's use. An amendment roster may be used with an introduced measure, a committee print, or a chairman's mark or staff draft. It may also be used for amendments to an amendment in the nature of a substitute. (See "9.7. Amendment in the Nature of a Substitute.") An amendment roster may operate with the choices above for how a measure is read for amendment. Because it may be structured to allow amendments to be offered in an order different from section-by-section, some chairs formally ask unanimous consent for a measure to be considered as read and open to amendment at any point, thereby obviating potential procedural questions related to reading the measure for amendment.

The agreement that a committee will use an amendment roster for its markup precedes a meeting. In planning a markup, a chair and ranking minority member agree to use a roster and on the procedures governing it, following consultation with their party's committee members. Unanimous consent must still be obtained once the markup meeting has convened and prior to reading the measure to be marked up for amendment. The chair will also typically explain the procedural features of the agreement in a colloquy with the ranking minority member, with that explanation incorporated into committee members' assent to the chair's unanimous consent request.

When committee members commit to use of an amendment roster, they are typically expected to submit most or all first-degree amendments in advance of the markup so that the amendments might be listed on the roster. Agreements normally require members to submit the text of their amendments on the roster at a specified time prior to the markup meeting, although a committee could allow placeholders for amendments to be submitted at the markup. Depending on the agreed-on procedure, listing on the roster may give amendments precedence over first-degree amendments not on the roster. The agreement might preclude first-degree amendments not on the roster or allow them to be offered only after all amendments on the roster have been considered. The agreement might also cover a situation in which a committee member was not present to offer an amendment in the position it was listed on the roster but wishes to offer the amendment upon arriving at the markup. The agreement might also preclude a motion to end debate on the measure and a motion for the previous question on the measure if those motions would be in order while members still desire to offer amendments on or off the roster. (See "9.9.3. Limiting or Closing Debate," and "12.4. Previous Question.") Any desired changes to the agreement governing the amendment roster during the course of the markup may be made only by further unanimous consent.

To initiate the amendment process using an amendment roster, a chair might proceed as follows:

> **Chair**: By agreement between the ranking minority member and myself, the committee [subcommittee] today shall use an amendment roster, and the bill shall be considered as read for amendment and be open for amendment at any point.
>
> *At this point, the ranking minority member may reserve the right to object to allow an explanation of the procedures that have been agreed to between the majority and minority governing the amendment roster. It is not a requirement of the unanimous consent request, but is a prudent, practical action.*
>
> **Ranking Minority Member**: Reserving the right to object, and I will not object, would the chair please explain our agreement concerning the amendment roster? I yield to the chair.
>
> **Chair**: I thank the gentleman and all of the committee members for their agreeing to the use of an amendment roster. We have agreed....
>
> **Ranking Minority Member**: I thank the chair for this explanation and withdraw my reservation.
>
> *The chair then implements use of the committee roster after the reservation is withdrawn.*
>
> **Chair**: Without objection, the committee [subcommittee] shall use an amendment roster, as just explained. An amendment by the gentleman [gentlelady] from [state] is listed first on the roster.

Committees that regularly use amendment rosters tend to develop a number of understandings related to this procedure over time and through experience. Some matters that these understandings might encompass include the following:

- In what order will amendments be listed on the roster and considered?
- May amendments be considered at the markup in a different order than that in which they are listed?
- If a member is not present to offer his or her amendment when it is reached on the roster, may the amendment be offered later? If it may be offered later, will that be when the member is next present or after all other amendments on the roster? What if House rules or precedents, such as those pertaining to already amended text, would preclude offering the amendment?
- May amendments not listed on the roster be offered? At what time?
- May a place be reserved on the roster, with the text of the amendment not available until the markup begins or until the amendment is offered?
- How far in advance must amendments be made available to be listed on the roster?
- If an amendment is listed on the roster, is its reading automatically dispensed with?
- Are perfecting amendments to or substitute amendments for an amendment listed on the roster allowed?
- If an amendment is listed on the roster, what points of order against it, if any, are waived?
- May a member who has more than one amendment listed on the roster seek unanimous consent to offer the amendments en bloc?
- May amendments by different members be offered en bloc?

9.3. Reading an Amendment

An amendment must be read in full unless by unanimous consent reading is dispensed with.[114] Once offered, the chair directs the clerk to report the amendment, and the clerk begins to read the amendment in full.[115] There is no motion to dispense with the reading of an amendment, but the sponsor or another member may seek unanimous consent to dispense with the reading. Unless that unanimous consent is obtained, the clerk must continue reading all of the text of the amendment.[116] If unanimous consent to dispense with the reading of the amendment is not obtained the first time it is requested, the request may be repeatedly renewed.

To dispense with the reading of an amendment, the amendment's sponsor might proceed as follows:

> **Chair**: Is there discussion of Section 1?
>
> **Member**: I have an amendment.
>
> **Chair**: The clerk shall report the amendment.

[114] An amendment is "a formal proposal to alter the text of a bill, resolution, amendment, motion, treaty, or some other text. Technically, an amendment is a motion." *Congressional Quarterly's American Congressional Dictionary*, p. 6. As any motion, an amendment must be read aloud before it is debated. Rule XVI, cl. 2, and House Practice, ch. 32, § 2, p. 646.

[115] When a member offers an amendment, staff ensure all committee or subcommittee members have a copy.

[116] *House Practice*, ch. 2, § 27, pp. 41-42.

> *Clerk begins to read the amendment in its entirety.*
>
> **Member**: I ask unanimous consent that further reading of the amendment be dispensed with.
>
> **Chair**: Without objection. The gentlelady is recognized for five minutes on her amendment.

As mentioned earlier, the terms used by a chair to have a clerk report a section or other unit as open for amendment can differ between committees. A chair may direct a clerk to "report" a section. If a committee has *not* agreed to dispense with the reading of sections or units for amendment, then the clerk reads the section or unit in its entirety. If a committee has agreed to dispense with the reading of sections or units, then the clerk reads only the section or unit designation, such as "Section 2" or "Title III." In some committees, the chair might be precise in directing the clerk, saying, "The clerk shall read the next section," when reading has *not* been dispensed with. Or, the chair might say, "The clerk shall designate the next section," when reading has been dispensed with. (See **Appendix I**. Sample Scripts for Selected Motions and Requests in the Amendment Process.)

9.4. Drafting Amendments and Amendment Strategy

Rules, practices, and ad hoc agreements vary among committees in requirements for submitting amendments prior to or in the course of a markup. A committee, for example, may require by committee rule the prefilling of an amendment in the nature of a substitute, other than such an amendment that the chair has designated as the markup vehicle. Some committees by practice often use an amendment roster, typically agreeing that first-degree amendments submitted in advance of the markup will have priority at the markup. (See "9.2.5. Amendment Roster," and "9.5.3. Degree.") A committee may by ad hoc unanimous consent impose a prefilling agreement for markup of a complex piece of legislation, requiring, for example, first-degree amendments to be submitted some minimal amount of time before they are in order to be offered. On occasion, however, a member or group of members favors an element of surprise in their amendment strategy and submits amendments only when they are offered.

What members agree to or do for a particular markup may depend on a number of factors, including the degree of agreement or controversy surrounding the policy issue and markup vehicle, the procedural strategy each side intends to employ, the relationship between the chair and ranking minority member, and the expected duration of the markup.

Members are normally encouraged to draft amendments before a markup with the assistance of attorneys from the Office of Legislative Counsel, but that is not a requirement. These attorneys, who are assigned to work with specific committees or on specific issues, are present at markups to assist committee members during a markup and to ensure that their office has the amendments and information necessary to prepare the bill or resolution as reported and portions of the committee report, such as the Ramseyer. (See "15.1. Preparing and Filing a Committee Report.") As a markup approaches, these attorneys and their law assistants can be very busy accommodating committee members' drafting needs. Legislative counsel seek to ensure that amendments substantively achieve members' desired policy objectives and that they do not result in either unintended consequences or ambiguities allowing numerous interpretations.

It is also advantageous to have the Office of the Parliamentarian review amendment drafts to avoid potential points of order. (See "11. Points of Order" and "9.8. Additional Procedural Considerations for Amendments.") Members and staff often consult broadly on policy issues in anticipation of drafting key amendments for markup, including consultations with experts who appeared at hearings, interest-group representatives, executive officials, and Congressional

Research Service (CRS) analysts and attorneys. CRS congressional procedures analysts may assist members and staff concerning questions on procedures and procedural strategy.

Office of Legislative Counsel attorneys also ensure that amendments are properly drafted to the markup vehicle. Although a committee may be lenient in overlooking instructions to the clerk (keying) in amendments drafted impromptu during a markup, or drafted to an earlier version of the measure being marked up,[117] an amendment should be sufficiently clear in indicating what language is to be stricken from a measure or an amendment, what language is to be inserted, and where, and what changes, if any, are to be made in the organization of the measure or amendment, punctuation, and other features of the measure or amendment.[118]

At the end of a markup, a chair normally seeks unanimous consent for committee staff to make technical corrections to a measure ordered reported. This permission allows the staff to redraft instructions to the clerk in an amendment that may have been keyed to an introduced measure rather than to the markup vehicle, to correct errors in spelling and punctuation, and to make other technical, nonsubstantive changes.

Committees often have standardized forms that members use to submit their amendment. These amendment forms allow committee clerks to organize paperwork for the smooth conduct of a markup and to compile amendments submitted before or during a markup in a manner that, at the chair's direction, they can readily identify and report. (See **Figure 2** for an example of a committee's amendment form.) It is a responsibility of a member's staff to ensure their party's professional committee staff is aware of the member's amendments for a markup.

What amendments are drafted, how many, their form and scope, and other considerations depend on a party's, group of members', or individual member's amendment strategy and goals. (See "9.5. Form, Scope, and Degree of Amendments.") A desire for bipartisanship might mean amendments with a number of announced supporters, compromise substitute amendments, or narrow perfecting amendments to the other party's amendments. A desire to delay, vigorously debate, weaken, or stop a measure might mean many amendments; fully developed amendment trees; votes on controversial propositions; many recorded votes; numerous motions, points of order, and parliamentary inquiries; and objections to unanimous consent requests. (See "9.6.2. The Amendment Tree," "12. Motions," "11. Points of Order," and "10. Parliamentary Inquiries.")

If a chair has the votes to blunt or deflect strategy meant to prolong a markup, he or she might use the threat of the previous question motion to cut off debate and the amendment process, if that motion is available; the possibility of bypassing committee markup; meetings of long duration to wear down the opposition; or exercising the chair's discretion to rule motions and inquiries out of order or as dilatory or improper. (See "6.6.2. Maintaining Order and Decorum.)

To alert a committee to an issue related to the legislation being marked up, members might also offer amendments but then withdraw them. (See below "9.8.7. Withdrawing an Amendment.") This action allows a member an opportunity to speak on a topic related to the measure being marked up without subjecting the proposition to a vote or a potential point of order. An amendment might be withdrawn because the member intends to offer it later in the legislative process, the proposition is still under discussion among committee members and the possibility of agreement exists, it is nongermane and a later possibility of overcoming procedural violations

[117] A point of order may lie against an improperly drafted amendment, for example, a substitute amendment drafted as a perfecting amendment. *House Practice*, ch. 2, § 1, p. 18.

[118] *See*, for example, Filson and Strokoff, *The Legislative Drafter's Desk Reference*, §§ 14.6 and 32.7, pp. 193-194 and 441-444; and Dorsey, *Legislative Drafter's Deskbook*, ch. 9, pp. 241-268.

exists, the chair has promised consideration at another time, the proponent intends to offer the amendment in markup of another measure, or the proponent is motivated by other reasons. (See "11.5. Germaneness.)

An amendment may be withdrawn with the understanding that the sponsor and the chair or other committee members will work to redraft it to win the committee's support. The sponsor will then offer the redrafted amendment later in the markup. Upon an amendment's withdrawal in such circumstances, the chair might indicate that the amendment is withdrawn *without prejudice* to a redrafted amendment being offered. It is not necessarily clear what this phrase means, but its meaning can be clarified with a parliamentary inquiry. For example, it could mean that, while the section to which the amendment was offered will have been closed for further amendment, the section will be automatically reopened for the redrafted amendment to be offered.

If a chair plans to use an amendment in the nature of a substitute, members normally find it advantageous to have provisions they favor included in it rather than needing to offer and advocate for amendments. This strategy is discussed above in "7.4. Amendment in the Nature of a Substitute. (See also "9.7. Amendment in the Nature of a Substitute.")

Figure 2. Sample Committee Amendment Form

Print Form

Committee on Homeland Security

AMENDMENT FORM

Amendment offered by _____ to (Bill) _____

Code no./ Identifying feature (i.e. .054) _____

Section amending _____ Page and Line Number _____

Summary of Amendment

Please provide the Clerk of the Committee with 50 copies of any proposed amendments. Amendments MUST be at the Desk at the time they are offered to be considered by the Committee.

Received by _____ Date / Time _____

Source: House Committee on Homeland Security.

9.5. Form, Scope, and Degree of Amendments

In offering an amendment, a committee member is making a *motion* to amend a measure (or draft) or a pending amendment. A motion to amend is a "formal proposal to alter the text of a bill, resolution, amendment, motion, treaty, or some other text."[119]

An amendment can be categorized or described in three ways—by its form, scope, and degree. Form describes what an amendment does to the text it proposes to change. Scope describes the extent of the amendment. Degree describes the relationship of an amendment to a measure's text.[120]

A section below ("9.6.4. Precedence of Amendments When Their Form Is To Strike, or To Strike and Insert, an Entire Section of Base Text") expands on procedural matters related to the examination of amendments in this section.

9.5.1. Form

A motion to amend takes one of three "forms," a description of the manner in which an amendment affects base text or another amendment:

1. motion to strike—a motion to remove text from base text[121] or a pending amendment, from as little as one word to a complete section to a large portion of text;
2. motion to insert—a motion to add text to base text or a pending amendment, but not delete text or amend text, which might add as little as a word, words, or sentence to a section or add a new section or add even more text; and
3. motion to strike and insert—a motion to both remove text from and add text to base text or a pending amendment, which might range from as little as replacing one word to replacing one section to the replacing the whole of the base text (the scope of which has its own name—an amendment in the nature of a substitute).

9.5.2. Scope

The "scope" of a motion to amend is also one of three types, a description of the extent to which an amendment amends base text or another amendment:

1. perfecting amendment—a change to base text (typically, to a section or paragraph) or to a pending amendment that may but probably does not change all of the text being amended, which may be in the form of an amendment to strike, insert, or strike and insert;[122]
2. substitute amendment—an alternative to the pending amendment that replaces the text of the amendment entirely, is an amendment to the base text rather than

[119] *Congressional Quarterly's American Congressional Dictionary*, p. 6.

[120] *House Practice* uses a different scheme of categorizing amendments than generally used by CRS, although the two analyses lead to the same procedural ends. *House Practice*, ch. 2, § 1, p. 17. See CRS Report 98-995, *The Amending Process in the House of Representatives*, by Christopher M. Davis.

[121] Base text is used here to cover the several texts that a committee might be considering for amendment. See "7. Procedural Strategy and the Choice of a Markup Vehicle." See explanations of "base text" at footnotes 67 and 73.

[122] *House Practice*, § 2, p. 19.

to the pending amendment, and is in the form of an amendment to strike and insert;[123] and

3. amendment in the nature of a substitute—an amendment that replaces the entire base text, in the form of an amendment to strike out and insert (discussed in detail at "9.7. Amendment in the Nature of a Substitute").

9.5.3. Degree

A motion to amend may be in the first or second degree, as permitted by House rule. Degree is a description of the relationship of an amendment to base text:[124]

- a first-degree amendment is an amendment to the base text;
- a substitute for the amendment to the base text is also a first-degree amendment;
- a second-degree perfecting amendment is permitted to be offered to the amendment;
- a second-degree perfecting amendment is permitted to be offered to the substitute;[125] but
- no third-degree amendment (an amendment to a second-degree amendment) is generally permitted.

No third-degree amendment (an amendment to a second-degree amendment) is permitted. Therefore, up to four amendments could be pending at one time. However, if a motion to strike an entire section or paragraph is the first amendment offered, then more than four amendments could be pending at once. (See "9.6.4. Precedence of Amendments When Their Form Is To Strike, or To Strike and Insert, an Entire Section of Base Text.") More than four amendments could also be pending at one time in other specific circumstances. For example, where an amendment in the nature of a substitute is offered when the first section of a measure is read for amendment, perfecting amendments may still be offered to the first section.[126] (See "9.7. Amendment in the Nature of a Substitute.")

9.6. Relationship Among Amendments

As just explained, up to four amendments might sometimes be pending at one time. Only a few critical procedural restrictions exist on the order of offering substitute and second-degree perfecting amendments, but the House has recognized a specific order of offering amendments where an amendment is to strike an entire section or paragraph, or to strike an entire section or paragraph and insert new text. Pending amendments must always be voted on, however, in a specific sequence.

[123] "The amendatory instructions contained in a substitute direct changes to be made in the original language rather than to the pending amendment.…[T]he substitute must be germane [however] to the pending amendment" *House Practice*, ch. 2, § 6, p. 21. See also ch. 2, § 24, pp. 39-40.

[124] Rule XVI, cl. 6.

[125] See also *Jefferson's Manual*, § XXXIII, in *House Rules and Manual*, § 454, p. 241; and *House Practice*, ch. 2, § 14, pp. 29-32.

[126] *House Practice*, ch. 2, § 1, p. 18.

9.6.1. Order of Offering Amendments Based on Their Scope

The first-degree amendment to the base text may be referred to as *the amendment*. Until it is disposed of (or temporarily set aside), further amendments are both offered and described in relation to it. As explained in *Deschler's Precedents*, "Only one perfecting amendment to the original text may be pending at a time."[127]

The next amendment offered may be a substitute amendment for the amendment, or it may be a second-degree perfecting amendment to the amendment. Either or both of these amendments may be offered, first the substitute amendment and then the perfecting amendment, or vice versa.

A substitute amendment is in the form of a motion to strike the text of the amendment first offered and insert a different text. The substitute amendment, like the amendment first offered, is an amendment to the base text. It is not an amendment of the text of the first amendment offered.[128] A substitute amendment must be germane to the amendment first offered. (See "11.5. Germaneness.") Under House rule and precedents, a substitute amendment is a first-degree amendment.[129]

A perfecting amendment to the first-degree perfecting amendment is a second-degree amendment. It may be in the form of an amendment to strike a portion of the first-degree amendment, to insert text in the first-degree amendment, or to strike text from the first-degree amendment and insert other text. It must be germane to the first-degree amendment.

If a substitute amendment is offered, a second-degree perfecting amendment may be offered to it. It may be in the form of an amendment to strike a portion of the substitute amendment, to insert text in the substitute amendment, or to strike text from the substitute amendment and insert other text. It must be germane to the substitute amendment.

A second-degree perfecting amendment to the amendment first offered may be offered before or after a second-degree perfecting amendment has been offered to the substitute amendment. Indeed, an amendment in an appropriate form and of an appropriate scope may be offered when one of the four amendments described here is not pending, subject to any point of order alleging a violation of a rule or precedent of the House. (See "9.8. Additional Procedural Considerations for Amendments," and "11. Points of Order.")

These four amendments that may be pending simultaneously—the amendment, a substitute amendment, and a perfecting amendment to the amendment and another perfecting amendment to the substitute amendment—compose the four branches on the House "amendment tree," an illustration that shows the scope and degree of the four amendments. (See **Figure 3**, Basic Amendment Tree.)

9.6.2. The Amendment Tree

This illustration summarizes the relationship of one amendment to another and to the measure's text, with four amendments pending. It also shows the sequence of voting on amendments. (See

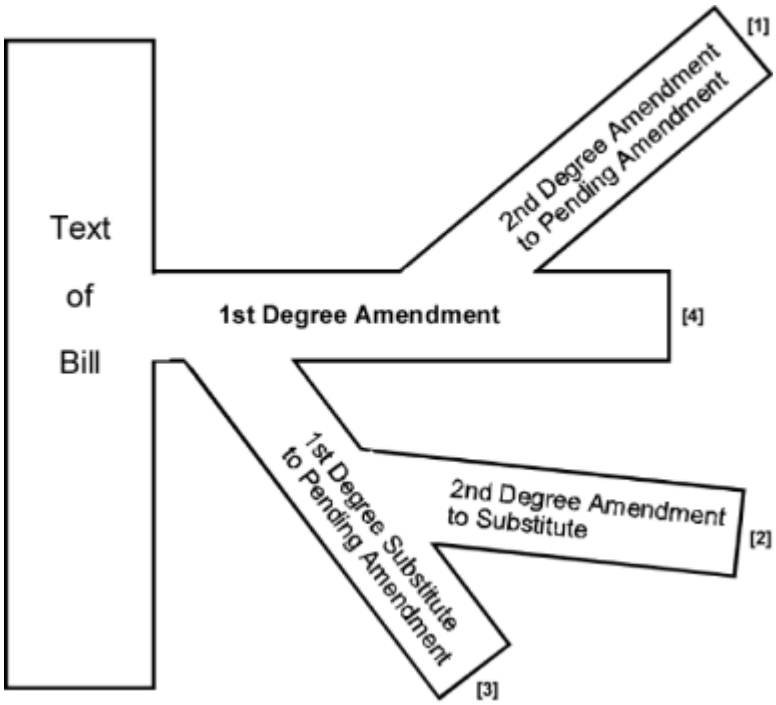
[127] Lewis Deschler, *Deschler's Precedents of the United States House of Representatives*, vol. 9, ch. 27, § 5.1, 94th Cong., 2nd sess., H.Doc. 94-661 (Washington, DC: GPO, 1990), pp. 206-207. (Hereinafter *Deschler's Precedents*, vol. 9.) Available online from GPO at https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=GPO&browsePath=Precedents+of+the+U.S.+House+of+Representatives%2F010-Deschler%27s+Precedents&isCollapsed=false&leafLevelBrowse=false&isDocumentResults=true&ycord=0.

[128] *House Practice*, ch. 2, § 6, p. 21.

[129] Rule XVI, cl. 6; and *House Practice*, ch. 2, § 14, pp. 29-32.

"9.6.5. Order of Voting on Amendments.") This illustration of the House amendment tree reflects diagrams appearing in *House Practice*.[130]

Figure 3. House Amendment Tree



Source: Congressional Research Service.

Note: Bracketed numbers indicate voting order.

9.6.3. Who May Offer an Amendment

A member must be recognized by the chair to offer an amendment. A member may not yield to another member to offer an amendment.[131]

A member may offer an amendment in his or her own name and on his or her own time. A member may also offer an amendment in his or her own name at the request or as designee of another member. A member may not offer an amendment in another member's name.[132]

A member may not offer an amendment to another amendment that he or she offered.[133] If the member is the author of an amendment to the original text, however, he or she could offer a perfecting amendment to a substitute amendment if the substitute is offered. Likewise, if the member is the author of a substitute amendment, he or she could also offer a perfecting amendment to the first-degree perfecting amendment. Alternatively, a member could seek unanimous consent to modify an amendment that he or she has offered, presumably before any

[130] *House Practice*, ch. 2, §§ 13 and 14, pp. 27 and 30.

[131] *House Rules and Manual*, § 946, p. 762. *See also House Practice*, ch. 16, § 16, pp. 402-403.

[132] *House Practice*, ch. 2, § 1, p. 17.

[133] Ibid., and § 6, p. 21.

action is taken on it, or could withdraw his or her amendment, change it, and seek to offer the new amendment.

A committee chair will likely alternate recognition to offer amendments between the majority and minority, also probably recognizing a more senior member of a party before a more junior one.

9.6.4. Precedence of Amendments When Their Form Is To Strike, or To Strike and Insert, an Entire Section of Base Text

Certain forms of an amendment offered to the base text can dictate the amendment options then available. This situation is explained most succinctly and cogently in *Deschler's Precedents:*

> …where a paragraph (or section) of a bill is under consideration, there may be pending at one time the following separate motions to amend *if offered in the order indicated:*
>
> (1) to strike out the paragraph (or section) in its entirety;
>
> (2) to strike out the paragraph (or section) and insert;
>
> (3) to insert, strike out and insert, or strike out a portion of the paragraph (or section)—a perfecting amendment to the paragraph or section.
>
> However, if the perfecting amendment (3) is offered first, the motions to strike out the paragraph and insert new language (2) or to strike out the paragraph (1) may not be offered until the perfecting amendments are disposed of. …With the exception that (2) above may be amended by a perfecting amendment before it is voted upon, it is generally the rule that the above motions may not be offered as amendments to or substitutes for one another.[134] *(Emphasis added.)*

The balance of this section is an explication of this excerpt. First, the reader will learn that an amendment to strike an entire section is held in abeyance (and does not appear on a branch of the amendment tree) until perfecting amendments to the section offered subsequently are disposed of. A motion to strike may not be offered while an amendment to strike the entire section and insert new text is pending or while motions to strike a portion of the section, to strike a portion of the section and insert new text, or insert new text is pending. If a section is amended in its entirety by perfecting amendments, the motion to strike the section in its entirety falls and is not voted on.

Second, the reader will learn that an amendment to strike an entire section and insert new text is subject to a second-degree perfecting amendment. A substitute amendment is also in order. A motion to strike the entire section is not in order until the amendment to strike the entire section and insert new text is disposed of, but adoption of the motion to strike the entire section and insert new text precludes the subsequent offering of a motion to strike to entire section.

Third, the reader will learn that one or more first-degree perfecting amendments in the form of an amendment to strike a portion of the section, strike a portion of the section and insert new text, or insert new text in the section *prevent* the offering of a motion to strike the entire section, or to strike the entire section and insert new text, until the first-degree perfecting amendments are disposed of. If perfecting amendments amend the entire text of a section, then a subsequent motion to strike the entire section, or to strike the entire section and insert new text, is precluded.

[134] *Deschler's Precedents*, vol. 9, ch. 27, § 15, pp. 400-401. *See also House Practice*, ch. 2, §§ 2, 22-23, and 40, pp. 19, 38-39, and 54-55.

9.6.4.1. Motion to Strike an Entire Section

If the first amendment offered to the base text is a motion to strike an *entire* section or paragraph, House precedents hold that amendment in abeyance and allow consecutive first-degree perfecting amendments to the section (and procedurally related amendments to the perfecting amendments) to be offered, considered, and voted on first. This motion to strike does not occupy a branch of the amendment tree. A perfecting amendment may be an amendment to insert new text in the section, to strike some or all text in the section and insert new text, or to strike a lesser portion of the text than the entire section or paragraph. The principle at work is one expressed in *Jefferson's Manual* that the House should consider amendments to perfect a text before voting to strike a section or paragraph or to agree to a section or paragraph.[135]

Although a motion to strike an entire section or paragraph may be offered *after* perfecting amendments to that section have been disposed of, it may not be offered *while* a perfecting amendment is pending. As indicated above in the excerpt from *Deschler's Precedents*, a motion to strike an entire section or paragraph may not be offered as a perfecting or substitute amendment to another amendment.

If a committee agrees to one or more perfecting amendments that amend a section or paragraph in its entirety, then the motion to strike held in abeyance falls and is not voted on because all of the text has been amended.[136]

9.6.4.2. Motion to Strike Out an Entire Section and Insert New Text

If the first amendment offered to the base text is a motion to strike an *entire* section or paragraph and insert new text for that section or paragraph, a perfecting amendment to that amendment, a substitute amendment for that amendment, and a perfecting amendment to the substitute amendment may be offered. In addition, as soon as a branch of the amendment tree is empty, another appropriate amendment may be offered that fills that branch of the tree.

As related above in the excerpt from *Deschler's Precedents*, a motion to strike an entire section is not in order as a perfecting or substitute amendment to an amendment to strike an entire section and insert new text, and may not be offered while such an amendment is pending. If a committee agrees to an amendment to strike an entire section and insert new text, it is not in order to offer a motion to strike the entire section since all of the text has been amended.

9.6.4.3. Motion to Amend a Portion of a Section

A first-degree perfecting amendment may be the first amendment offered to the base text in the form of a motion to insert new text in a section or paragraph, strike out a *portion* of text in the section or paragraph and insert new text, or strike out *a portion* of a section or paragraph.

As indicated above in the excerpt from *Deschler's Precedents*, neither a motion to strike the entire section or paragraph nor a motion to strike the entire section or paragraph and insert new text may be offered as a perfecting or substitute amendment to an amendment relating to a portion of text or while perfecting amendments are pending. If a committee amends with perfecting amendments a section in its entirety, it is not in order to offer a motion to strike the entire section or to offer a motion to strike the entire section and insert new text.

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[135] *Jefferson's Manual*, § XXXIII, in *House Rules and Manual*, § 456, p. 243. See also *House Practice*, ch. 2, § 2, p. 19; § 21, pp. 36-38; § 22, p. 38; and § 31, p. 47.

[136] *House Practice*, ch. 2, § 2, p. 19, and § 22, p. 38. See also § 21, pp. 36-38.

9.6.5. Order of Voting on Amendments

If amendments to an amendment are pending, there is a specific order for voting on the amendments.[137] (See **Figure 3**, The Basic Amendment Tree.) The order of voting, if an amendment is pending on each branch of the amendment tree, is as follows:

- the second-degree perfecting amendment to the amendment;
- the second-degree perfecting amendment to the substitute amendment;
- the substitute amendment, as amended if amended; and
- the amendment, as amended if amended.

Once an amendment is disposed of, another appropriate amendment may be offered to fill that branch on the amendment tree, subject to any point of order alleging a violation of a rule or precedent of the House. So, for example, after a vote is taken on a perfecting amendment to the amendment, another appropriate perfecting amendment to the amendment may be offered. The committee would vote on that amendment before proceeding to vote on other pending amendments.[138]

If a substitute amendment is agreed to, however, the chair immediately puts the question on the amendment as amended by the substitute.[139] (See also **Appendix K,** Sample Script for Voting on Amendments, and **Appendix L,** Sample Scripts for Parliamentary Inquiry on Voting Order on Amendments, with Votes on Amendments to an Amendment in the Nature of a Substitute Made Base Text.)

9.7. Amendment in the Nature of a Substitute

An amendment in the nature of a substitute replaces the entire text of the bill or resolution, committee print, or chairman's mark or staff draft called up by the chair. Its scope is such that it is examined separately here, allowing the procedures of its consideration to be explained coherently. (See also "7.4. Amendment in the Nature of a Substitute.") In the contemporary House, an amendment in the nature of a substitute appears to be the favored committee markup vehicle.

An amendment in the nature of a substitute is in the form of a motion to strike and insert, and begins with the words "strike all after the enacting clause [resolving clause] and insert…." The enacting clause appears in italicized type before the text of a bill begins: *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled[.]* In a joint resolution, it is a resolving clause and reads: *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled[.]* This clause gives legal force and effect to a measure if passed by Congress and signed by the President or passed over his veto. Again, an amendment in the nature of a substitute deletes everything after the enacting clause or resolving clause and inserts a new text.

If an amendment in the nature of a substitute will be the markup text, it must be made publicly available in electronic form 24 hours prior to the markup meeting, or earlier if committee rules require availability for more time than 24 hours. (See "3.2.3. Notice and Documents.")

[137] Rule XVI, cl. 6; and *House Practice*, ch. 2, § 28, p. 43.

[138] *House Practice*, ch. 2, § 2, p. 19; § 13, p. 28; and § 21, pp. 36-38.

[139] Ibid., § 28, p. 43, and § 32, p. 47.

9.7.1. Offering

Once a chair has called up an introduced measure, a committee print, or a chairman's mark or staff draft, and it has been read or its reading dispensed with, the chair directs the clerk to begin reading the measure for amendment. Unless another process is agreed to by unanimous consent, the measure is read for amendment by section. (See "9.2. Options for Reading for Amendment.") The chair directs the clerk to report Section 1.

If a chair decides to use an amendment in the nature of a substitute as the markup vehicle, the amendment must be offered at the beginning of the amendment process.[140] Normally, it is offered as soon as the amendment process begins.[141] Once the clerk reports Section 1, the chair or another majority-party member offers an amendment in the nature of a substitute. It is a first-degree amendment.

An amendment in the nature of a substitute strikes all text after the enacting clause in a bill or draft bill or resolving clause in a resolution or draft resolution, and inserts other text. Once offered, an amendment in the nature of a substitute becomes the markup vehicle since it is pending until it is disposed of.[142] As the majority's preferred legislative solution to the policy issues it comprehends, an amendment in the nature of a substitute is normally approved once amendments to it are considered. Once approved, further amendments are no longer in order because the underlying measure has been amended in its entirety.[143] (See "7.4. Amendment in the Nature of a Substitute.")

If a chair or another member offers an amendment in the nature of a substitute, the chair might proceed as follows:

> **Chair**: The bill is now open for amendment. The clerk shall report Section 1 of the bill.
>
> *Committee clerk reads Section 1 in its entirety, unless its reading is dispensed with by unanimous consent.*
>
> **Chair**: I have an amendment in the nature of a substitute. The clerk shall report the amendment.
>
> *Committee clerk begins reading the amendment in the nature of a substitute.*
>
> **Chair**: Without objection, the amendment in the nature of a substitute shall be considered as read for purpose of amendment.
>
> *A member could object to this unanimous consent request, forcing the amendment in the nature of a substitute to be read in full. There is no motion to dispense with the reading of any amendment, unlike the motion available to dispense with the reading of a properly noticed measure or draft. The request for unanimous consent to dispense with the reading*

[140] An amendment in the nature of a substitute may also be offered at the end of the amendment process, but that rarely occurs.

[141] *House Practice*, ch. 2, § 19, pp. 34-35.

[142] While an amendment in the nature of a substitute is pending, amendments to the underlying measure are not in order, except for perfecting amendments to Section 1. These perfecting amendments must be voted on before the amendment in the nature of a substitute is voted on. This kind of amendment is rare today.

[143] Ibid., § 7, pp. 21-22; § 13, p. 29; § 21, p. 38; § 32, pp. 47-48; and § 41, pp. 55-56. Should an amendment in the nature of a substitute be rejected, the committee could continue the markup, going section-by-section through the underlying measure (or, by unanimous consent, opening the measure for amendment in another manner). Because an amendment in the nature of a substitute is normally the majority party's preferred alternative, rejection is unusual and continuation of a markup after its rejection would be exceptional.

> *could, however, be renewed numerous times until successful or until the proponent abandons the request.*

(See also **Appendix G,** Sample Script for Offering an Amendment in the Nature of a Substitute.)

9.7.2. Reading

As with other amendments, an amendment in the nature of a substitute must be read, and its reading may be dispensed with only by unanimous consent, as might be discerned from the script immediately above. There is no motion to dispense with the reading of any amendment, including an amendment in the nature of a substitute.[144] Because an amendment in the nature of a substitute for a long or complex measure is likely also to be long and complex, a committee's or subcommittee's inability to obtain unanimous consent to dispense with the reading may result in many hours of a markup being consumed with reading.

However, there is an incentive for members opposed to an amendment in the nature of a substitute as a legislative solution or as drafted to force its reading. Once an amendment in the nature of a substitute is read, or its reading is dispensed with, it is in order for the chair or another member to immediately move the previous question. If agreed to, the previous question terminates debate and the amendment process—before debate begins or an amendment is proposed if the motion is offered and adopted immediately. In this situation, Rule XIX, clause 1(a) requires, however, 40 minutes of debate to be allowed. If there is the briefest debate after the amendment is read or its reading is dispensed with, no additional debate needs to be allowed if the motion is then offered and adopted. With the threat of no substantive opportunity to debate or offer amendments to the amendment in the nature of a substitute, members might object to dispensing with its reading to delay the committee's approval of the amendment.

These two conditions related to an amendment in the nature of a substitute—it must be read, as must any amendment, and the previous question is immediately in order—sometimes lead to a procedural or political understanding between the majority and minority members of a committee. If a chair wishes to mark up an amendment in the nature of a substitute, the minority may desire the opportunity to offer amendments to it. If the minority suspects that the chair might avail himself or herself of moving the previous question early in the markup, a minority member could object to dispensing with the reading of an amendment in the nature of a substitute, extending the duration of the markup and disrupting the majority's logistics in having its members present for recorded votes and concluding the markup. In contrast, minority members probably want to avoid the majority moving the previous question early in the markup process and might agree not to use some procedural tools available to them in exchange for an amendment process.

9.7.3. Amending

An amendment in the nature of a substitute is a first-degree amendment. A perfecting amendment to it, a substitute amendment for that amendment, and a perfecting amendment to the substitute may be pending at one time. Once a branch or all branches of the amendment tree are unoccupied, except the branch occupied by the amendment in the nature of a substitute, another amendment may be offered. Offering and voting on amendments occurs as explained earlier. (See "9.6. Relationship Among Amendments.") An amendment in the nature of a substitute is open to

[144] The motion to dispense with the reading of a measure applies only to the measure, not to any amendment, including an amendment in the nature of a substitute. (See "8.4. Calling Up and Reading the Measure," and "9.3. Reading an Amendment.")

amendment at any point. A committee by unanimous consent may agree to a structured amendment process, such as reading the amendment in the nature of a substitute by section or title or by using an amendment roster.

As just explained ("9.7.2. Reading"), the previous question may be moved on an amendment in the nature of a substitute at any time after the amendment is offered and the briefest period of debate has occurred. Once the amendment process has been completed or the previous question has been ordered, a committee votes on approval of the amendment in the nature of a substitute as it may have been amended. (See "9.7.4. Adopting.")

A substitute amendment to the amendment in the nature of a substitute may be offered that strikes the text of the amendment in the nature of a substitute and inserts new text. Even if perfecting amendments to an amendment in the nature of a substitute have been adopted, a full-text substitute for it is still in order. If the substitute amendment is agreed to, debate and the amendment process ends because the amendment in the nature of a substitute has been completely amended. A vote occurs immediately on the amendment in the nature of a substitute as amended.[145]

Because, as explained immediately above, there may be advantages to both the majority and minority in cooperation when a chair plans to offer an amendment in the nature of a substitute, it might be possible for them to agree on aspects of the amendment process. An agreement might include a markup schedule, a list of amendments, prefiling of amendments, the order in which amendments will be offered, whether second-degree amendments are allowed, the duration of debate on amendments, what amendments will be decided by voice or recorded vote, the handling of postponed votes, whether en bloc amendments may be offered, what points of order are anticipated and how they might be disposed of, and what motions are anticipated. (See "11. Points of Order," "12. Motions," and "13. Voting." See also "6.6.1. Scheduling Meetings and Setting an Agenda," and "7.5. Markup Based on Sole, Primary, Additional Initial, or Sequential Referral.")

The amendment process and amendment strategy also depends on whether an amendment in the nature of a substitute is made original or base text for purposes of further amendment.[146] The amendments that may be offered and are pending at one time when an amendment in the nature of a substitute has been offered depends on what position the amendment in the nature of a substitute occupies on the amendment tree. When offered, the amendment in the nature of a substitute is a first-degree amendment that occupies the amendment branch. The proponent might then seek unanimous consent to make the amendment in the nature of a substitute original text for the purpose of further amendment; no motion exists to do that. If unanimous consent is obtained, the amendment in the nature of a substitute no longer occupies a branch on the amendment tree. (See "9.6.2. The Amendment Tree.") The ramifications for the amendment process and amendment strategy are examined next. (See also "7.4. Amendment in the Nature of a Substitute.")

[145] *House Practice*, ch. 2, § 24, p. 39; § 32, pp. 47-48; and § 41, pp. 55-56.

[146] Original text might also be referred to as base text or as original text for purpose of amendment. The important matters to understand are whether the individual using any of these terms intends that the text is amendable in two degrees; how the measure will be read for amendment; and when the previous question will be in order. See the distinctions in the use of terms like original text at footnote 73.

9.7.3.1. Amending Text Not Made Base Text

When an amendment in the nature of a substitute is offered, it is not base text for the purpose of further amendment.[147] It occupies the first branch of the amendment tree. Three branches of the amendment tree are available for offering amendments to the amendment in the nature of a substitute.[148]A substitute amendment may be offered to the amendment, and second-degree perfecting amendments may be offered to the amendment in the nature of a substitute and to the substitute. When a branch of the amendment tree is open, an appropriate amendment may be offered to fill it.

Unless a committee by unanimous consent chooses another procedure, an amendment in the nature of a substitute is open to amendment at any point.[149] Because it requires unanimous consent to use another amendment procedure, the minority has a procedural opportunity to object if it believes it to be advantageous to do so. As indicated earlier, unanimous consent is also required to dispense with the reading of an amendment in the nature of a substitute, another procedural opportunity for the minority if it believes advantageous to object.

When an amendment in the nature of a substitute is not base text, the majority has a certain advantage in that it is its amendment to which amendments are being offered. Unless there is a policy majority on a committee that disagrees with the major components of the majority's amendment in the nature of a substitute, the committee at the end of the amendment process will still be agreeing to the majority's favored legislative solution. A chair, through his or her control of recognition, can also guide the amendment process so that majority amendments are offered in an order that can preempt and, if adopted, preclude minority amendments: minority members could have trouble drafting their amendments to get around the prohibition on offering amendments to previously amended text or offering germane amendments to previously amended text. (See "9.8.3. Amending Amended Text," and "11.5.1. Text to Which an Amendment Must Be Germane.") The lack of order—an example of order being reading for amendment section-by-section—can then work to the majority's advantage.

Having the amendment in the nature of a substitute occupy the amendment branch of the amendment tree also prevents the binary choice contemplated by House rule of an amendment and a substitute for it. The minority is likely in the position of offering a perfecting amendment or of offering a substitute amendment to which a majority perfecting amendment can be offered. The minority proponent of an amendment could be put in the position of voting against an amendment bearing his or her name.

The majority might also favor not making an amendment in the nature of a substitute base text if it has few amendments. Because the amendment in the nature of a substitute is open to amendment at any point, the amendment process allows the majority to fairly quickly offer and presumably agree to any amendments it desires. The previous question motion is in order at any point (after the briefest period of debate), allowing the majority to end the amendment process, cut off further amendments and debate, and complete the markup efficiently if the committee agrees to the motion.

The minority may nonetheless find it advantageous not to have an amendment in the nature of a substitute made original text. It then can offer perfecting amendments to the amendment in the

[147] For the procedural explanation of an amendment in the nature of a substitute made base text, see "9.7.3.2. Amending Text Made Base Text."

[148] *House Practice*, ch. 2, § 13, p. 29, and § 14, p. 31.

[149] Ibid., § 7, pp. 21-22, and § 27, p. 42.

nature of a substitute, and the majority could offer alternatives in the form of a substitute amendment, to which a perfecting amendment could be offered. A minority member, then, could be the sponsor of one and possibly two second-degree amendments. Because votes occur first on second-degree amendments, the minority member may be better able to obtain an up-and-down vote on his or her amendment. It also takes time to fill an amendment tree and debate the amendments on it, allowing the minority to prolong the consideration of each amendment. The minority's motivation for amendments may be substantive or political or both.

Either party, then, might find advantages in an amendment in the nature of a substitute not being base text. A winning tactic for a specific amendment could turn on who offers it, when it is offered, and in what form it is offered. In addition to seeking to preempt or preclude each other's amendments, members might through the amendment process force difficult votes for some members of the other party and put amendment sponsors in the position of voting against their own amendments as those amendments have been amended.

9.7.3.2. Amending Text Made Base Text

The chair or sponsor of the amendment in the nature of a substitute may ask unanimous consent that an amendment in the nature of a substitute be made base text—the text to be marked up. If unanimous consent is obtained, the first branch of the amendment tree is not occupied by the amendment in the nature of a substitute.[150] Then, each amendment offered occupies the first branch of the amendment tree, and other members may offer a substitute amendment and perfecting amendments to both the amendment and the substitute.[151]

If the majority wants to make the amendment in the nature of a substitute base text, the minority may find it advantageous to give its consent if it obtains agreements related to the amendment process. The majority will also need unanimous consent to dispense with the reading of the amendment in the nature of a substitute when it is offered. If the amendment in the nature of a substitute is made base text, it is by practice read by section, and the previous question is not then in order until all sections are read.[152]

The majority may find this procedure advantageous because minority members will need to offer their amendments as first-degree amendments at least some of the time. They will not likely be able to offer their proposals solely as second-degree amendments. A minority amendment will occupy the first branch of the amendment tree, and the majority can offer a perfecting amendment to it, which would be voted on first. Another minority member could respond with a substitute amendment, but, again, the majority could respond with a perfecting amendment to it. In both instances, the majority obtains votes on its amendments first. Alternatively, when the majority offers an amendment, the minority could offer a substitute, but the majority could then respond with a perfecting amendment to the substitute, giving the majority the first vote on its preference.

Alternatively, the majority could offer a substitute to an amendment, setting up a binary choice where the majority can out-vote the minority in support of the substitute and the minority proponent of the amendment could end up voting against his or her own amendment.

The minority nonetheless could find reading of the amendment in the nature of a substitute by section or other unit to be advantageous. The chair would be less effective in recognizing majority members to offer amendments where the amendment in the nature of a substitute is open

[150] Ibid. See also footnote 146.

[151] Compare "7.3.2. Managers' Amendment."

[152] *House Practice,* § 27, p. 42.

to amendment at any point. Where a majority amendment is offered, the minority can offer a substitute amendment or a perfecting amendment or both. Where the minority offers an amendment, it can fill other branches of the amendment tree as recognition alternates between the parties. Even if it lacks the number of members to out-vote the majority, the cleaner binary choices may suit the minority's policy and political purposes. The minority might also find it advantageous to have the whole amendment in the nature of a substitute read for amendment without having the previous question in order at any time.

Either party might find advantages in an amendment in the nature of a substitute being base text. A winning tactic, again, for a specific amendment could turn on who offers it, when it is offered, and in what form it is offered. In addition to being able to offer alternatives to each other's amendments, members might through the amendment process force difficult votes for some members of the other party and put amendment sponsors in the position of voting against their own amendments as those amendments have been amended.

9.7.4. Adopting

If an amendment in the nature of a substitute is not made base text, and the previous question has not been moved, the amendment process continues until no more amendments are offered, no member seeks debate time, or the previous question is ordered. At that point, a vote occurs on the amendment in the nature of a substitute, as amended if amended. If the amendment is adopted, the amendment stage ends since the measure has been amended in its entirety. The committee or subcommittee may then vote on approving the measure as amended.

If an amendment in the nature of a substitute was made base text, once the amendment process ends, the committee may vote on the measure as amended. By making the amendment in the nature of a substitute original text, a committee or subcommittee obviates the need to take a separate vote on the amendment in the nature of a substitute as may have been amended.

In either case, the measure approved will be reported with a single amendment, the amendment in the nature of a substitute. A committee could also choose to report a clean measure, as explained below. (See "14.2.3. Clean Bill or Resolution.")

9.8. Additional Procedural Considerations for Amendments

This section addresses additional procedural issues that may arise in the amending process. Subsequent sections, "9.9. Debate on Amendments" and "11. Points of Order," analyze more procedural issues. (See **Appendix I**. Sample Scripts for Selected Motions and Requests in the Amendment Process.)

9.8.1. Precedence of the Motion to Amend

The precedence of motions in Rule XVI, clause 4 lists the motion to amend sixth, behind the motion to adjourn, to lay on the table, for the previous question, to postpone to a day certain, and to refer.[153] This rule and clause also makes the motion to recess in a specific circumstance equal in precedence to the motion to adjourn. The motion to amend has a higher order of precedence than the motion to postpone indefinitely.

[153] *Precedence* is defined thus: "The order in which amendments and other motions may be offered and acted on…. When a motion is pending, a motion of higher precedence may be offered and must be disposed of first." *Congressional Quarterly's American Congressional Dictionary*, p. 182.

These motions may or may not be in order, depending on a variety of factors discussed throughout this manual. For example, if a measure is being read for amendment by section, it is not in order to move the previous question on the measure until the last section has been read, although the previous question is in order to cut off debate and further amendment of a pending amendment.

In addition, under the five-minute rule, Rule XVIII, clause 5, five minutes' debate in support of an amendment that has been offered and five minutes' debate in opposition to that amendment take precedence over a motion to amend. (See "9.9.1. Five-Minute Rule.")

9.8.2. In Writing

All motions, including a motion to amend, must be in writing if demanded by a member.[154] Unless there is an agreement governing amendments, committee members may submit written amendments in advance of a markup, bring written amendments to a markup, edit their amendments before offering them at a markup, or draft amendments while a markup is occurring.

Although it is not a requirement to have amendments drafted by Office of the Legislative Counsel attorneys, it is advantageous for members to seek their assistance. The attorneys seek to ensure that amendments are properly drafted, they substantively achieve members' desired policy objectives, and they do not result in either unintended consequences or ambiguities allowing numerous interpretations. (See "9.4. Drafting Amendments and Amendment Strategy.") Legislative Counsel Office attorneys are assigned to work with specific committees or on specific issues. They are frequently present at markups to assist committee members with drafting during a markup and to ensure that their office has the amendments and information necessary to prepare the bill or resolution as reported and portions of the committee report, such as the Ramseyer. (See "15.1. Preparing and Filing a Committee Report.")

Committees might request a certain number of copies of amendments to be submitted, but a request of this type does not prevent amendments from being drafted and offered during a markup. In the event a committee has agreed to a prefiling process, unanimous consent could be sought to accommodate amendments not filed in advance.[155]

9.8.3. Amending Amended Text

If a member is offering the first amendment to a section (or the unit of a measure open for amendment), he or she has a certain freedom in drafting the amendment. An amendment may not be identical to an amendment already offered and agreed to or defeated, it may not amend amended text, and a member may not offer an amendment to his or her own amendment. An amendment also might not seek to reinsert text that was stricken by amendment. A member may not offer an amendment to solely strike text that was previously inserted by amendment.[156] These constraints are not likely to apply to the first amendment offered to a section.

If the member offering an amendment is not first, he or she can possibly get around these restrictions. If a similar or identical amendment has already been offered, the member may make a substantive change in the amendment and offer it, or perhaps offer it in a different form. If the

[154] Rule XVI, cl. 1.

[155] The Rules Committee often requires proposed amendments to measures to be submitted. These are amendments to measures on which the Rules Committee expects to draft a special rule. They are not amendments to a draft special rule.

[156] *House Practice*, ch. 2, §§ 2, 3, 5, 13, 22, and 37-39, pp. 19, 20, 28, 38, and 51-54.

underlying text has already been amended, the member may offer a "bigger-bite" amendment that changes more text than changed in the previously amended text, or offer an amendment to another part of a section that has not yet been amended. A member might offer an amendment to a later section that affects or even changes the intent of an amendment adopted to an earlier section, or insert a new section.[157] If the member wants to offer an amendment to his or her amendment, the member may seek a colleague to offer the amendment or use a branch of the amendment tree that does not attach to the branch containing the member's amendment.

9.8.4. Reoffering an Amendment

Although a member may not in principle reoffer an amendment identical to one that has been rejected, the member might be able to reword the amendment or use procedural precedents to offer a similar or the same amendment. An amendment that is similar but not the same could be in order. An amendment might also be able to be offered in a different place on the amendment tree, such as a first-degree amendment if it had been offered as a second-degree amendment.

For example, in general, the proposition in a substitute amendment may not be reoffered after it has failed. However, where the substitute amendment was changed in the amendment process, it may be possible to reoffer the proposition as an amendment to the underlying text. Even where the substitute amendment was defeated, it may be possible to reoffer it as an amendment to the underlying text because a different proposition might be presented in relation to the text than was presented in relation to the amendment for which it was a substitute.

A motion to strike having been rejected, however, the same motion may not be reoffered. Amendments offered en bloc and rejected may be offered individually.[158]

9.8.5. En Bloc Amendments

To offer an amendment to a section not yet read for amendment, a member could arguably make a unanimous consent request. A more likely scenario, however, is that a member would have an amendment that affected the section currently open for amendment and one or more amendments to subsequent sections.

The member presumably wishes to offer the amendments together because the changes in the several sections are very closely related, because a change in one place would leave an inconsistency in another place, or for another reason. The member would then ask unanimous consent to offer the amendments en bloc, that is, to consider them in a group as if one amendment. It is also possible that the majority and minority would agree to offering en bloc noncontroversial amendments on which little or no debate is needed and which are acceptable to both sides. A member might also have obtained the consent of the chair and possibly of the ranking minority member prior to a markup to offer his or her amendments en bloc. To offer these amendments together, a member would ask unanimous consent to offer them en bloc,[159] for example,

> **Chair:** The gentleman is recognized to offer an amendment.

[157] Ibid., §§ 24, 38-40, 42, and 44, pp. 39-40 and 52-58.

[158] Ibid., §§ 24 and 44, pp. 39-40 and 57-58.

[159] Ibid., § 30, p. 45.

> **Member:** I have an amendment to the pending section, Section 4, and ask unanimous consent to offer this amendment and my amendments to Sections 7 and 9 en bloc.
>
> **Chair:** Without objection.

A single vote is then likely to agree to the en bloc amendments. However, a division of the question may be demanded on one or more of the en bloc amendments, resulting in a vote on each amendment on which a division was demanded and a vote on the portion of the en bloc amendments on which a division was not demanded. The amendments on which a division was demanded remain debatable and amendable. The divisibility of a question is discussed below under Voting, "13.5. Divisibility of a Question." In addition, if amendments offered and voted on en bloc are rejected, they may be reoffered individually.[160] (See also **Appendix M,** Sample Scripts for Division of a Question: Amendments and En Bloc Amendments.)

9.8.6. Modifying an Amendment

Although a member may not offer an amendment to his or her own amendment, a member may modify an amendment that he or she has offered only by unanimous consent.[161] Lacking unanimous consent, a member may withdraw the amendment, which a member may do without seeking unanimous consent, and seek to offer another amendment containing the changes.

9.8.7. Withdrawing an Amendment

A member may withdraw his or her amendment without unanimous consent before a recorded vote is ordered on it or an amendment to it has been adopted. A member may also withdraw an amendment if a point of order is made or reserved against it, before the chair has ruled on the point of order or the reservation has been withdrawn.[162]

An amendment may be withdrawn with the understanding that the sponsor and the chair or other committee members will work to redraft it to win the committee's support. The sponsor will then offer the redrafted amendment later in the markup. Upon an amendment's withdrawal in such circumstances, the chair might indicate that the amendment is withdrawn "without prejudice" to a redrafted amendment being offered. It is not necessarily clear what this phrase means, but its meaning can be clarified with a parliamentary inquiry. For example, it could mean that, while the section to which the amendment was offered will have been closed for further amendment, the section will be automatically reopened for the redrafted amendment to be offered. (See further discussion at "9.4. Drafting Amendments and Amendment Strategy.")

9.8.8. Amendment to the Title

A committee might also report an amendment to the official title of a bill or resolution, presumably to accurately reflect the subject of the legislation with changes recommended by the committee.[163] A committee amendment to the title is reported automatically by the clerk after the House passes the measure, but an amendment to the committee amendment is in order.[164]

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[160] Ibid., ch. 21, §§ 9 and 16, pp. 486 and 489; and ch. 2, § 44, p. 58.

[161] Ibid., ch. 2, § 37, pp. 51-52; and ch. 59, § 3, pp. 967-968.

[162] Ibid., ch. 2, § 36, p. 51; and ch. 59, §§ 1 and 4, pp. 966-967 and 968-969.

[163] In this instance, title does not refer to the organizational structure of a measure but to its official title, which is defined thus: "The official name of a bill or act, also called a caption or long title. Appearing above the enacting clause, the title is usually a concise statement of the measure's subjects and purposes." *Congressional Quarterly's American Congressional Dictionary*, p. 262. For a discussion of the official, or long, title, see Filson and Strokoff, *The Legislative* (continued...)

9.8.9. Motion to Strike the Enacting Clause

Rule XVIII, clause 9 recognizes the motion to strike the enacting clause as a motion to kill a measure. The rule also gives this motion precedence over the motion to amend. The motion may be offered when a measure is being read for amendment. The motion is debatable under the five-minute rule, but only one five-minute speech in support of the motion and one five-minute speech in opposition to the motion are allowed. Debate may discuss the legislation as well as the motion. The motion is not amendable. The motion may be repeated on the same day after a "material modification" of the measure, and may be repeated on a subsequent day even if there has been no modification.[165] This motion is rarely used in committee.

A member opposed to the measure might make the motion as follows:

> [Mr./Madam] Chairman, I move that the committee do now report the bill [resolution] back to the House with the recommendation that the enacting clause [resolving clause] be stricken.

9.9. Debate on Amendments

A member wishing to speak or to offer an amendment seeks the chair's recognition. Only when recognized may the member speak. If the member wishes to offer an amendment, he or she says, "[Mr./Madam] Chairman, I have an amendment." (See "9.6.3. Who May Offer an Amendment," and "9.9.2. Decorum.") If recognizing the member, the chair states, "The clerk shall report the amendment," and the clerk begins to read the amendment while other clerks distribute a copy to each member of the committee or subcommittee, if copies were not previously distributed. The member might ask unanimous consent to dispense with the reading of the amendment. Unless there is objection, the chair will say, "The reading of the amendment is dispensed with. The member is recognized for five minutes on [his/her] amendment." (See "9.3. Reading an Amendment.")

As explained below, another member may make or reserve a point of order *before* the amendment's proponent begins to speak. The chair will need to rule on the point of order—unless reservation was made and then withdrawn—before an amendment to the amendment is offered or before the committee or subcommittee votes on adopting the amendment. (See "11. Points of Order.")

Committee staff conversant with the legislation and related policy issues might sit at the table facing the dais where witnesses sit during a hearing. Administration officials from appropriate departments or agencies might also be seated at this table. Committee members then might, through the chair, direct queries on the measure or proposed amendments to these individuals. The committee clerk—who reads amendments, assists in time keeping, and calls the roll on votes—also sits at this table. (See **Appendix I**. Sample Scripts for Selected Motions and Requests in the Amendment Process.)

(...continued)

Drafter's Desk Reference, § 11.1, pp. 118-120; and Dorsey, *Legislative Drafter's Deskbook*, §§ 5.15, 5.22, 5.31, 5.41, and 5.51, pp. 155-157, 160-161, 162, 165, and 166.

[164] Rule XVI, cl. 6. *House Practice*, ch. 2, § 48, pp. 62-63; and ch. 6, § 4, pp. 168-169. See, for example, "Municipal Finance Support Act of 2017," *Congressional Record*, daily edition, vol. 163, October 3, 2017, pp. H7704-H7706.

[165] *House Practice*, ch. 2, §§ 5, 9, 10, and 21, pp. 20, 23-25, and 36-37; and ch. 12, §§ 21-24, pp. 329-334.

9.9.1. Five-Minute Rule

Debate during markup, including on amendments, occurs pursuant to the five-minute rule.[166] This rule technically allows only the proponent of an amendment to speak for five minutes and then an opponent to speak for five minutes. By precedent, additional members may recognized to debate for five minutes each. The opponent first recognized could choose to offer an amendment rather than debate, although in principle another amendment is in order only after five minutes' debate in opposition.[167] A committee member may also seek five minutes to debate or discuss the measure even if no amendment is pending.

Digital clocks controlled by the chair or a clerk count down a member's five minutes once he or she has been recognized.

A committee could agree by unanimous consent to reduce time allocated to proponents and opponents, such as two minutes for each speaker, or agree to a time limit, with two members allocating time to their side until all time has been consumed. (See also "9.9.3. Limiting or Closing Debate.")

Unlike debate on the House floor, members need only seek recognition. They do not need to offer a pro forma amendment (e.g., "I move to strike the last word."), although members and chairs commonly move to strike the last word. By practice, the chair normally seeks to alternate recognition for debate between majority- and minority-party members.[168] The practice in a committee, or in a specific markup, may be for the chair to recognize a more senior member before a more junior member, or to recognize members in the order in which they have sought recognition. The chair may simply recognize members seeking recognition, or might prompt members by saying, "Is there [discussion/further discussion]?" Unlike the presiding officer in the House, the chair of a committee may participate in debate and offer amendments.

To obtain five minutes to speak, a member might request recognition for five minutes. A member must be recognized by the chair, and may first be queried by the chair, "For what purpose does the [gentleman/gentlewoman] seek recognition?" The member might reply that he or she wishes to discuss the pending measure or amendment, offer an amendment, make a parliamentary inquiry, make a motion, or state what other matter the member wishes. After ascertaining a member's purpose, the chair may recognize the member or might respond otherwise and appropriately under the parliamentary situation then prevailing.[169]

When recognized, a member might debate any pending amendment or the underlying section or paragraph of the measure. If a branch of the amendment tree is open, a member may be recognized to offer an amendment. Because up to four amendments can be pending at a time, and members might even have alternatives to suggest to what is pending, debate can become complex as members discuss options.[170] Debate should be relevant. It should address the pending amendment(s) but may explain them within the larger context of the markup vehicle or policy issue.[171]

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[166] Rule XVIII, cl. 5(a); and *House Practice*, ch. 16, § 47, p. 435. *See also House Practice*, ch. 12, §§ 13-14, pp. 321-323.

[167] *House Practice*, ch. 2, § 9, p. 23, and § 24, p. 39; and ch. 12, § 13, p. 322.

[168] Ibid., ch. 16, § 11, pp. 396-397; and ch. 46, § 14, pp. 810-811.

[169] Rule XVII, clauses 1-2; and *House Practice*, ch. 46, § 1, p. 798.

[170] *House Practice*, ch. 16, § 20, pp. 406-407. *See also House Rules and Manual*, § 948, pp. 763-765.

[171] Rule XVII, cl. 1; Rule XVIII, cl. 5; and *House Practice*, ch. 16, §§ 18-20, pp. 404-407.

In principle, a member may be recognized by the chair to speak just once on an amendment. Members, however, may ask unanimous consent for additional time,[172] and may also yield to one another to give someone who has already debated additional time to speak. A member may also seek recognition for debate when no amendment is pending.[173]

A member who wishes to interrupt another member for debate must seek that member's permission, for example, inquiring, preferably through the chair, "[Mr./Madam] Chairman, would the [gentleman/gentlewoman] yield?" It is within the discretion of the member who has been recognized whether or not to yield. Because debate in committee is under the five-minute rule, a member may yield to another member but may not yield a specific amount of time. The member who has been recognized continues to control the five minutes and may reclaim it or yield to yet another member. The first member may take back the time and cut off the other member by saying, "Reclaiming my time…." or "I reclaim my time." A member yielded to may not yield to a third member.[174]

As said just above, a committee could agree by unanimous consent to reduce time allocated to proponents and opponents, such as two minutes for each speaker, or agree to a time limit, with two members allocating time to their side until all time has been consumed. (See also "9.9.3. Limiting or Closing Debate.")

A member may be interrupted in some instances by another member, for example, alleging disorderly words, discussed immediately below, but a member must yield to another member for other purposes, such as to make a parliamentary inquiry. A member may not be interrupted by a member making a motion, but must yield for that purpose.[175]

9.9.2. Decorum

Members must observe the rules and precedents of the House in debate and conduct. They must speak and act respectfully, and may not use disorderly words or unparliamentary language, such as words impugning the motives of their House colleagues, Senators, and the President.

9.9.2.1. Chair's Duty

In its applicability to committees, Rule I, clause 2 gives a committee chair responsibility for preserving order and decorum in the committee room—among members, other participants, and observers: "The Speaker shall preserve order and decorum and, in case of disturbance or disorderly conduct in the galleries or in the lobby, may cause the same to be cleared."[176] The chair may admonish members generally to adhere to a standard of behavior or may admonish one member specifically. The House parliamentarian applies a standard that seems to identify whether a member is treating others with comity, which the parliamentarian defines as mutual respect and

[172] *House Practice*, ch. 16, § 47, p. 435.

[173] See Ibid., § 54, pp. 442-445, for additional information on the five-minute rule.

[174] Ibid., ch. 46, § 1, p. 799. If necessary, a chair will intervene to identify the member who controls five minutes.

[175] Ibid., ch. 16, § 17, pp. 403-404.

[176] The parliamentarian's notes to Rule XI, cl. 1(a)(1)(A), regarding the applicability of the rules of the House to its committees and subcommittees, indicates that this clause "enables standing and select committees to enforce in committee applicable House rules of decorum, such as clause 2 of rule I and rule XVII." *House Rules and Manual,* § 787, p. 555. Rule I pertains to the Speaker's authority and Rule XVII to debate and decorum.

not impairing the dignity of the proceedings. The parliamentarian clarifies that Members may engage in what might be characterized as spirited debate, but may not breach decorum.[177]

By extension of Rule XVII, clause 2 to committees, the chair recognizes members to speak, determining when more than one member seeks recognition who speaks first.

9.9.2.2. Members' Responsibilities

In its applicability to committees, Rule XVII establishes standards of behavior for members. Rule XVII, clause 1(a) provides that a member who "desires to speak" shall "respectfully address [the chair] and, on being recognized, may address" the committee. Rule XVII, clause 1(b) further provides: "Remarks in debate (which may include references to the Senate and its Members) shall be confined to the question under debate, avoiding personality."[178] The parliamentarian's notes to this rule indicate members are to address their remarks to the chair, address the chair respectfully, and address colleagues in the third person.[179] A member may seek to interrupt another member by asking the chair whether the member recognized will yield, but, except, for example, when alleging offensive words, the member recognized decides whether to yield. One member may not seek to disrupt a member who has been recognized.[180]

9.9.2.3. Disorderly Language or Words Taken Down

Although there are numerous precedents to guide a chair on disorderly or unparliamentary language—words and behavior that violate the norms of decorum of parliamentary bodies—there is not a bright line for determining what is and what is not disorderly language. In *House Practice*, the following guidance appears:

> The context of the debate itself must be considered in determining whether the words objected to constitute disorderly criticism or do in fact fall within the boundaries of appropriate parliamentary discourse. The present-day meaning of language, the tone and intent of the Member speaking, and the subject of his remarks, must all be taken into account by the Speaker.[181]

This guidance summarizes many categories and individual instances of the application of House rules and precedents to understanding what is disorderly language.

Three categories of individuals are regularly the subject of disorderly language—Members and Delegates, Senators, and the President and other executive officials. In "avoiding personality" as required by Rule XVII, clause 1, members may not personally criticize or impugn the personal

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[177] *House Practice*, ch. 16, § 21, pp. 407-410; and *House Rules and Manual*, § 361 (§ XVII in *Jefferson's Manual*), pp. 179-181, and § 945, pp. 759-762.

[178] Rule XVII, cl. 5 deals with comportment (such as physical contact, attire, or smoking), and cl. 6 with exhibits. See also *House Practice*, ch. 16, §§ 21-25, pp. 407-413, dealing with disorder in debate.

[179] *House Rules and Manual*, § 945-949, pp. 759-765; and *Jefferson's Manual*, § XVIII, in *House Rules and Manual*, § 361, p. 179. Considerable detail on decorum appears throughout the parliamentarian's notes in *Jefferson's Manual*, § XVIII, §§ 353-377, pp. 175-198.

[180] *House Rules and Manual*, § 946, pp. 762-763; and *Jefferson's Manual*, § XVIII, in *House Rules and Manual*, § 364, pp. 183-184.

[181] *House Practice*, ch. 16, § 22, p. 410. In addition, in an attempt to provide guidance, former Minority Leader Robert H. Michel prepared a document, "Words Taken Down: The History, Evolution and Precedents of an Important House Rule." The document is undated. Mr. Michel, an Illinois Republican, served as minority leader from 1981 to 1994. The document is available from the authors of this manual. There are other forms of disorder in debate, such as attire, exhibits, and badges, that a chair might need to deal with. See *House Practice*, ch. 16, § 21, pp. 407-409.

motives of an individual Representative, an identifiable group of Representatives, or the Speaker, or make gratuitous references, such as of prejudice or disloyalty, concerning Representatives. They may criticize House committees, the House, or legislation, but they may not impugn personal motives or "make unparliamentary claims of unlawful activity."[182]

Although members under Rule XVII, clause 1 may refer to the Senate and Senators, they are still directed under the rule with "avoiding personality." Accusations against identifiable groups of Senators and against individual Senators have been held to be unparliamentary.[183] A more lenient standard applies to the President, Vice President, and executive officials, so that Members may be critical of policies, decisions, messages, and political motivations, but personally offensive or personally critical comments have been held to be unparliamentary.[184] Other restrictions, such as avoiding profanity and vulgarity, are placed on Members in debate.[185]

As already indicated, a chair may admonish members generally to adhere to a standard of behavior or may admonish one member specifically, and direct members to proceed in order. A chair may also sustain a point of order against unparliamentary remarks where the member making the point of order does not "demand that the words be taken down," and direct the member who made the disorderly words to proceed in order. By extension to committees, Rule XVII, clause 4 further directs a committee chair to call a member to order and to decide the "validity" of a call to order of a member made by another member.[186]

A member who makes a point of order or demands another member's words be taken down must be timely—making the demand immediately after the words are said and before debate has intervened—and must indicate the words objected to.

When a member demands that another member's words be taken down pursuant to Rule XVII, clause 4, the chair suspends further debate and directs the official reporter to report the words. The offending member might ask unanimous consent that his or her words be withdrawn or modified. Otherwise, the chair may first ask the member who made the allegedly disorderly remarks if he or she wishes to seek unanimous consent to modify or withdraw them. No explanation or other discussion is allowed. By the initiative of the chair or by motion by another member, a member whose words are taken down may be allowed to explain his or her words. The member who demanded that the words be taken down might also withdraw the demand; unanimous consent is not required.

Based on the clerk's report of the words, the chair then rules whether the words objected to are disorderly: "The chair is ready to rule. The chair finds that the words are [out of order/in order]." Debate preceding the decision is not in order, but the chair may choose to explain the decision. The chair's decision may be appealed, but, under Rule XVII, clause 4(b), the appeal is not debatable. Words ruled out of order are stricken from the record by unanimous consent or by approval of a debatable motion, or the member who made the disorderly remarks may still seek unanimous consent to withdraw the words. If the words were ruled out of order, the member who

[182] Ibid., §§ 33-43, pp. 419-430; and *Jefferson's Manual*, § XVII, in *House Rules and Manual*, §§ 360-363, pp. 178-183.

[183] *Jefferson's Manual*, § XVII, in *House Rules and Manual*, § 371, pp. 192-195. *See also House Practice*, ch. 16, § 23, p. 411.

[184] *Jefferson's Manual*, § XVII, in *House Rules and Manual*, § 370, pp. 187-192. *See also House Practice*, ch. 16, § 25, pp. 412-413.

[185] *House Rules and Manual*, § 945, p. 760.

[186] *House Practice*, ch. 16, §§ 21 and 26, pp. 407-410 and 413-414. *See also House Rules and Manual*, § 961, pp. 778-782.

said the words may continue to participate in debate that day only by unanimous consent or by approval of a debatable motion, although the member may continue to vote.[187]

Once these proceedings are disposed of, debate continues on the committee business that was suspended.

9.9.3. Limiting or Closing Debate

If a member wants to attempt to limit debate on an amendment or a section (or larger unit by which a measure is open for amendment), the member may ask unanimous consent or may make a motion to limit or close debate.[188] The motion is amendable but not debatable.[189] Such a request or motion will, however, need to be agreed to by the committee or subcommittee to take effect. A unanimous consent request might specify not only the time remaining but also allocate its use.

After being recognized to make the motion to limit or close debate, a member would say:

> **Member:** I move to close debate on the amendment [section] and all amendments thereto [immediately] [at ... o'clock] [in ... minutes].
>
> **Chair:** The question is on the motion to close debate. As many as are in favor, say "aye." *(Pauses.)* As many as are in favor, say "no." *(Pauses.)* In the opinion of the chair, the ayes [noes] have it and the motion is agreed to [not agreed to].
>
> *A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*

If the motion is successful and calls for debate to end at a certain time or after a certain amount of time, the chair may allocate the time remaining. The chair may allocate it to members who had already asked to be recognized, divide control between a proponent and opponent, or continue to recognize members under the five-minute rule until all time is expired. The chair could also give priority in recognition to members seeking to offer amendments. The chair or another member could also make a unanimous consent request for allocating the remaining time or reducing the time available to each speaker to less than five minutes.[190]

If the motion called for debate to end after a certain amount of time, such as 60 minutes, only debate would count toward that total. Time consumed by recorded votes, parliamentary inquiries, points of order, and other matters would not be counted. If the motion called for debate to end at a specific time, both debate and other actions would be included in the remaining time.[191]

If the motion is successful and called for debate to end immediately, or if the time allowed under the motion has expired, the chair puts the question on the amendment, if pending, and, prior to that, any amendments to that amendment. In agreeing to the motion, the committee or subcommittee has not prohibited additional amendments to the amendment or to the section,

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[187] *House Practice*, ch. 16, §§ 28-30 and 32, pp. 415-419; and ch. 59, § 4, p. 969.

[188] In the notes to Rule XI, cl. 2(a), the parliamentarian commented: "... because a measure considered in committee must be read for amendment, a motion to limit debate under the five-minute rule in committee must be confined to the portion of the bill then pending." *House Rules and Manual*, § 792, p. 561.

[189] *House Practice*, ch. 16, § 56, p. 447.

[190] Ibid., § 59, p. 450; and ch. 46, § 15, pp. 811-812.

[191] Ibid., ch. 16, § 59, pp. 449-450.

depending on the wording of the motion. Further amendments may be offered, but they are decided without debate.

Once a measure has been fully read for amendment, this motion is also in order to close debate on the measure and all amendments to it. Because the previous question, which cuts off further amendments as well as debate, would also be in order at that time, a committee might find it preferable to use that motion. (See also **Appendix J,** Sample Scripts for Motion to Close Debate; Parliamentary Inquiry; and Point of Order of Absence of Quorum.)

10. Parliamentary Inquiries

Members use parliamentary inquiries throughout a markup to clarify the operation of parliamentary procedures, obtain information on scheduling, ascertain from a chair's information on the manner in which he or she plans to conduct the markup, and to learn other information. A parliamentary inquiry should not ask a hypothetical question, but an inquiry might be able to be reworded to concern specific parliamentary procedures related to the measure under discussion. A parliamentary inquiry should also not concern the meaning or ramifications of an amendment or a provision of a measure. Those kinds of matters should be discussed in debate, and a chair should so indicate. Nonetheless, members might attempt to ask these kinds of questions as a tactical matter.

To make a parliamentary inquiry, a member must be recognized when another member is not engaged in debate. Alternately, if a member is engaged in debate, the member with the parliamentary inquiry may ask that member if he or she would yield so that the member could make a parliamentary inquiry.

A chair is not required to entertain a parliamentary inquiry, but normally does so unless he or she determines the purpose is improper, repetitive, or not relevant to the pending proposition. The chair's response to a parliamentary inquiry is not a ruling and is not subject to appeal.[192] (See also **Appendix J,** Sample Scripts for Motion to Close Debate; Parliamentary Inquiry; and Point of Order of Absence of Quorum.)

11. Points of Order

A point of order is "used in committee and on the floor to object to an alleged violation of a rule and to demand that the chair enforce the rule. The point of order immediately halts the proceedings until the chair decides whether the contention is valid."[193] In committee, the *rule* described here could be a House rule or precedent or a committee rule. Rules are not normally self-enforcing. A member must make a point of order immediately when he or she perceives a violation to be occurring. If no member makes a point of order that a rule violation is occurring and the committee continues its markup, the committee's proceedings cannot usually be procedurally attacked later in the markup or collaterally, such as on the House floor.[194] (See also "14.2.3. Clean Bill or Resolution," a reporting option for committees to circumvent procedural errors that might have occurred during a markup.)

[192] Ibid., ch. 37, §§ 13-16, pp. 690-693.

[193] *Congressional Quarterly's American Congressional Dictionary*, pp. 179-180.

[194] *House Practice*, ch. 37, § 10, pp. 689-690; and ch. 11, § 15, pp. 275-276.

A member may make a point of order, in which case the chair immediately decides it, or a member may reserve a point of order, which delays decision making for a short period of time, as explained below. Whether alleging a violation of a House or committee rule, a member must be able to cite the specific rule being violated.

Although members often make points of order in conjunction with the offering of amendments, there are instances throughout a committee markup in which other points of order might be raised. For example, a point of order could be made that a quorum is not present. House rules require a minimum quorum of one-third for activities such as committee markups,[195] although committees are allowed to create a higher quorum in their rules or to include other provisions in their quorum rules, such as an effort to encourage the presence of the minority. As examined above (see "9.9.2.3. Disorderly Language or Words Taken Down"), a member may make a point of order against another member's use of unparliamentary language. (See also **Appendix J,** Sample Scripts for Motion to Close Debate; Parliamentary Inquiry; and Point of Order of Absence of Quorum.)

Although there are few opportunities in the House, separate from a vote, to raise a point of order that a quorum is not present, a committee member, when recognized, can make such a point of order during a committee markup. If committee rules are silent, the point of order would be based on House rules. If committee rules referenced or used the House rule, or established a different quorum requirement than House rules, the point of order would be based on committee rules. When the point of order is made, the chair would count for a quorum. If the chair announces that a quorum is present, business proceeds; the chair's count is not subject to an appeal. If the chair announces the absence of a quorum, he or she could direct the clerk to call the roll until a quorum is established, however long that takes, at which time business would proceed. The chair could also recess or even adjourn the committee. A member and chair might deal with such a point of order as follows:

> **Member**: Mr. Chairman, I make a point of order.
>
> **Chair**: The gentlelady shall state her point of order.
>
> **Member**: Mr. Chairman, I make a point of order that a quorum is not present, as required by Committee Rule 3.
>
> **Chair**: The chair shall count for a quorum. (*The chair counts the members present.)* The chair finds that a quorum is present. Is there further discussion of the [section/amendment]?

If a member (or members) repeatedly makes a point of order that a quorum is not present after a quorum has been established, the chair could decline to recognize a member for the point of order, finding the action to be dilatory (made for the "sole purpose of delay").[196]

With regard to amendments, after an amendment has been read, or its reading has been dispensed with, one of two things may happen next. Typically, the chair recognizes the amendment's proponent for five minutes to speak on the amendment. The chair will then recognize other members for five minutes each to speak on the amendment.

Something else, however, may happen before the amendment's proponent begins to speak. If another member has, or may have, a parliamentary criticism of the amendment, that member must

[195] Rule XI, cl. 2(h)(3). Other paragraphs in this clause establish different minimum quorums for other committee actions or activities.

[196] *House Practice*, ch. 43, § 9, pp. 764-765.

be timely in acting on that criticism, and *reserve* or *make* a point of order before the amendment's proponent begins to speak.[197] Once the proponent begins debate, it is too late to reserve or make a point of order.

Concerning points of order against an amendment, members in markup sessions frequently cite germaneness (Rule XVI, clause 7) or committee jurisdiction (Rule X, clause 1) in alleging violations of House rules, although there are other rules violations that can be alleged. A point of order may be made if any part of an amendment is alleged to violate a rule or precedent.[198] In a point of order based on germaneness, the issue is whether the amendment is germane to the "portion of the bill to which it is offered." If a measure is being read by section, the amendment must be germane to the section to which it is offered. If a measure is being read by title, the amendment must be germane to the title to which it is offered. If a measure is being read by section and an amendment is proposed to insert a new section, the amendment must be germane to the sections that had been "read to that point."[199] Germaneness is discussed in detail below (see "11.5. Germaneness").

A point of order has precedence over a parliamentary inquiry.[200]

11.1. Reserving or Making a Point of Order against an Amendment

When a member has or may have a parliamentary criticism of an amendment, the member may reserve or make a point of order.[201] In either instance, the member must reserve or make a point of order after the amendment is read, or reading has been dispensed with, and before the proponent begins to speak on his or her amendment.[202]

11.1.1. Making a Point of Order

If a member makes a point of order, the chair immediately recognizes the member to identify the objectionable text and to cite the House rule or precedent or committee rule being violated and to explain the application of the rule to the amendment. In making a point of order, the member must be prepared to speak immediately. A member might immediately make a point of order against an amendment if the member already knows the violation and wishes to prevent the proponent from obtaining five minutes to advocate for the amendment. Nonetheless, if the chair entertains debate, the proponent will be accorded time to argue against the point of order.

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[197] Ibid., ch. 2, § 34, p. 49; and ch. 37, § 4-6 and § 10, pp. 684-686 and 689.

[198] Ibid., ch. 37, § 1, pp. 680-681.

[199] Ibid., ch. 26, § 3, p. 547. For a discussion of germaneness, see *House Rules and Manual*, §§ 928-940, pp. 727-757; and *House Practice*, ch. 26, pp. 544-602.

[200] *House Practice*, ch. 37, § 8, p. 687.

[201] A member with a potential parliamentary criticism must register that concern before consideration begins. So, the member must reserve or make a point of order against an amendment before its consideration begins. *House Practice*, ch. 37, § 4, p. 684. A member would make a point of order that a quorum is not present rather than reserve such a point of order because it is an objection to the committee continuing to conduct business without a quorum. For a discussion of procedures related to a germaneness point of order, see Lewis Deschler and Wm. Holmes Brown, *Deschler-Brown Precedents of the United States House of Representatives*, vol. 11, ch. 28, §§ 43-44 and 46, 94th Cong., 2nd sess., H.Doc. 94-661 (Washington, DC: GPO, 1993), pp. 770-786 and 810-820. (Hereinafter *Deschler-Brown Precedents*, vol. 11. The volumes through volume 9 were authored by Lewis Deschler; the volumes after volume 9 were authored by Lewis Deschler and Wm. Holmes Brown.) Available online from GPO at https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=GPO&browsePath=Precedents+of+the+U.S.+House+of+Representatives%2F010-Deschler%27s+Precedents&isCollapsed=false&leafLevelBrowse=false&isDocumentResults=true&ycord=0.

[202] *House Practice*, ch. 2, § 34, p. 49; and ch. 37, § 4 and § 6, pp. 684 and 686.

11.1.2. Reserving a Point of Order

Alternately, a member may say, before the amendment's proponent begins to speak, "I reserve a point of order." The chair normally responds, "The gentleman [gentlelady] reserves a point of order. The sponsor of the amendment is recognized for five minutes on the amendment." The chair has discretion to allow the reservation and to allow debate on the amendment until the chair is prepared to hear discussion of the point of order or a member demands regular order (as explained below). A member might reserve rather than make a point of order if the member is unsure whether there is a violation, or what the violation is, or wishes to hear how the proponent explains the amendment, perhaps showing that there is not a violation.[203] A chair could, however, inform the member to immediately make the point of order or withdraw the reservation.

During markup in some committees, the majority or minority or both routinely reserve points of order against all of the other party's members' amendments, even if the amendments have been available to committee members in advance. A member on each side might be designated to reserve, or committee staff might ask a member present to reserve. Staff review an amendment for potential points of order while the proponent is speaking and the chair allows debate. Staff might then advise the chair (or ranking minority member) and the member who reserved whether to withdraw the reservation or to make the point of order. If recommending the latter option, staff likely provide the member with a citation to the rule or precedent being violated and arguments to be made in support of the point of order.

When a member reserves a point of order, his or her reservation protects all points of order that other members might make. Another member may make or, if the chair allows, reserve a point of order if the first member's point of order is overruled or withdrawn. If the second member's point of order is overruled, a third member may make a point of order, and so on.[204] Alternately, the chair may ask that all points of order be made, and then rule. If one point of order is sustained, the chair does not rule on any other point of order.[205]

Because the reservation of a point of order by one member is a reservation of points of order for other members as well, there is a consequence if the member withdraws the point of order. As soon as the reservation is withdrawn, another member must make or reserve a point of order before debate again occurs.

In the course of debate on the amendment, the chair might ask a member who reserved the point of order, "Does the member wish to continue to reserve the point of order or to withdraw the reservation?" If the chair is prepared to hear the point of order, he or she controls the decision whether the reservation may continue. The chair might then say, "Does the member insist on the point of order?" The member then either withdraws the reservation or makes the point of order. A point of order against an amendment is decided before amendments to it are offered or a vote

[203] During markup in some committees, the majority or minority or both routinely reserve points of order against all of the other party's members' amendments, even if the amendments have been available to committee members in advance. A member on each side might be designated to reserve, or committee staff might ask a member present to reserve. Staff review an amendment for potential points of order while the proponent is speaking and the chair allows debate. Staff might then advise the chair (or ranking minority member) and the member who reserved whether to withdraw the reservation or to make the point of order. If recommending the latter option, staff likely provide the member with a citation to the rule or precedent being violated and arguments to be made in support of the point of order.

[204] *House Practice*, ch. 2, § 33, p. 48; and ch. 37, § 3, pp. 683-684.

[205] Ibid., ch. 37, § 1, p. 681; and ch. 59, § 4, p. 969.

taken.[206] (See also **Appendix H,** Sample Scripts for Offering an Amendment and Disposing of a Point of Order.)

If a member wishes to reserve a point of order against an amendment, the member might proceed as follows:

> **Chair**: Is there an amendment to Section 1?
>
> **Member**: I have an amendment.
>
> **Chair**: The clerk shall report the amendment.
>
> *Clerk begins to read the amendment.*
>
> **Member**: I ask unanimous consent that further reading of the amendment be dispensed with.
>
> **Another Member**: I object.
>
> *A member considering reserving or making a point of order might object to dispensing with the reading of an amendment in order to hear the exact language of the amendment and to have time to consider whether or not to make or reserve a point of order.*
>
> **Chair**: Objection is heard. The clerk shall continue to read.
>
> *The clerk reads the amendment in its entirety.*
>
> **Member**: I reserve a point of order.
>
> **Chair**: The gentlelady reserves a point of order. The gentleman who offered the amendment is recognized for five minutes on his amendment.

11.2. Demand for Regular Order

If at any time while a reservation of a point of order is pending a committee member says, "I demand regular order," the chair immediately asks the member who reserved the point of order whether the member withdraws the reservation or insists on the point of order. A demand for regular order forces the committee to deal immediately with the reservation. If the member with the reservation makes the point of order, the chair recognizes the member to cite the House or committee rule being violated and to explain the application of the rule to the amendment. Again, if the chair recognizes multiple members to discuss the point of order, a member could demand regular order, in which instance discussion would end and the chair would rule on the point of order.

11.3. Debate and Chair's Ruling

When the chair is prepared to hear a point of order against an amendment, or a member has demanded regular order, the chair asks the member who reserved the point of order, "Does the member withdraw the reservation or insist on the point of order?" The member must then either withdraw the reservation or make the point of order without further delay. The member may withdraw the reservation for any reason, and does not have to explain the reason for withdrawing it.[207] In making the point of order, the member should indicate the House rule or precedent or

[206] Ibid., ch. 2, § 34, p. 49; and ch. 37, §§ 6 and 8, pp. 686 and 687.

[207] Ibid., ch. 37, § 11, p. 690; and ch. 59, § 4, p. 969.

committee rule violated by the amendment and explain the application of the rule to the amendment.[208]

Discussion of the point of order and the duration of that discussion are within the discretion of the chair. A chair normally gives the member making the point of order an opportunity to argue the matter, and also normally gives the sponsor of the amendment an opportunity to respond. The burden is on an amendment's proponent to demonstrate the amendment's compliance with House rules and precedents and committee rules.[209] Other members wishing to be heard on the point of order must seek recognition. The chair has discretion to recognize as many members to speak for as long as he or she wishes them to do so. Discussion concerns the basis for the point of order, not the merits of the amendment, and the time that each member is allowed to speak is at the discretion of the chair. A member might demand regular order in an attempt to have the chair end discussion and rule on the point of order.

A point of order may be withdrawn before the chair rules on it. If the point of order is withdrawn, the chair makes no ruling. If the proponent of an amendment concedes the point of order, the chair normally sustains the point of order and does not explain his or her action.[210] If the maker of the point of order insists on the point of order, the chair rules on it. The chair may make a decision on a different basis than the bases argued by the proponent and opponent of the point of order.[211] A point of order sustained against any part of an amendment invalidates the entire amendment.[212]

In ruling, a chair seeks to adhere to precedent,[213] and normally explains his or her ruling sustaining or overruling a point of order. When the chair has heard as much discussion as he or she wishes and is prepared to rule on the point of order, the chair might say, "The chair is prepared to rule." The chair then explains the conclusion he or she has reached, and ends by saying, "The point of order is sustained [overruled]."[214]

A committee might proceed on a point of order as follows:

> **Chair:** Does the gentlelady insist on her point of order?
>
> **Member:** I do, Mr. Chairman.
>
> **Chair:** The gentlelady is recognized on her point of order.
>
> **Member:** I make a point of order that the amendment violates Rule XVI, clause 7 pertaining to germaneness. The amendment….
>
> **Chair:** Does the gentleman who offered the amendment wish to be heard on the point of order?

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[208] Ibid., ch. 37, § 1, p. 680.

[209] Ibid., ch. 37, § 9, pp, 687-689.

[210] Ibid., ch. 37, §§ 9 and 11, pp. 688 and 690.

[211] *Deschler-Brown Precedents*, vol. 11, ch. 28, § 43, p. 770.

[212] *House Practice*, ch. 37, § 1, pp. 680-681.

[213] Ibid., § 2, p. 683.

[214] Committee members or staff regularly consult the House parliamentarian prior to or even during a markup, although no parliamentarian attends a markup or other committee meeting. A committee chair often designates one of the majority staff to advise the chair and majority members on parliamentary procedures. The ranking minority member may also designate one of the minority staff to advise minority members on parliamentary procedures. Committees have sometimes requested CRS staff to attend committee meetings to assist with procedural questions. A private caucus of a party's committee members may be scheduled before a markup to discuss amendment strategy, procedural issues such as points of order that could potentially be made, and other factors relevant to the markup.

Member Offering Amendment: I do, Mr. Chairman.

Chair: The gentleman is recognized.

Member Offering Amendment: Mr. Chairman, this amendment meets all of the tests of germaneness….

Chair: Does any other member wish to be heard on the point of order? *(Pauses.)* Seeing that no other member seeks recognition, the chair is prepared to rule. As noted in the *House Rules and Manual*, the second test of germaneness…. Therefore, the chair [overrules/sustains] the point of order. The amendment [is/is not] in order. Is there further discussion of [this section/the amendment]?

11.4. Appeal of the Chair's Ruling

House rules allow an appeal of a chair's ruling on a question of order. Although appeals are not routine, they might occur several times a year in a committee. A member will say, "I respectfully appeal the ruling of the chair." The motion is debatable under the five-minute rule, but a majority member normally immediately makes a nondebatable motion on which the vote then occurs, "[Mr./Madam] Chairman, I move to table the appeal." The vote is then on the motion to table.[215] (See "12.6. To Table.")

Member: I respectfully appeal the ruling of the chair.

Another Member: I move to table the appeal.

Chair: The question is on the motion to table the appeal of the chair's ruling. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the motion to table is agreed to.

A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. By offering and agreeing to a motion to table, the committee [subcommittee] cuts off debate on the appeal of the chair's ruling and adversely disposes of the appeal.

An appeal is debatable, but a motion to table is not. The motion to table allows the majority to move expeditiously to dispose of the appeal, while the possibility of having a division or recorded vote, or both, might serve various purposes of the minority. If the motion to table is agreed to, it kills the appeal while sustaining the chair's ruling. A member may withdraw his or her appeal, even if a motion has been made to lay the appeal on the table, before the question is put on the motion to table.[216]

11.5. Germaneness

One of the points of order most commonly raised or reserved against an amendment is that it is not germane to the text it seeks to amend, meaning the quality of germaneness is absent in the amendment's relationship to the text proposed to be amended. As examined below, the text may

[215] *House Practice*, ch. 3, § 1, p. 65. A member might also make a nondebatable motion for the previous question, in which case the committee would presumably need to vote twice, first to move the previous question and, if moved, then without further debate on the appeal. Ibid.

[216] Ibid., ch. 3, §§ 5-6, p. 68.

be a section (or paragraph) of a measure or other markup vehicle, a larger unit of text, the entirety of a measure, or another amendment.

Germaneness is in its essence a condition of *subject*: for a germane relationship to exist, an amendment must be on the same subject as the matter to be amended.[217] Rule XVI, clause 7 tersely states, "No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment." The word germaneness is not used; rather, an amendment is not allowed on a "subject different from that under consideration." As the late congressional scholar Walter Kravitz observed, "A crucial factor in determining germaneness in the House is how the *subject* of a measure or matter is defined."[218] *(Emphasis added.)*

In general, the subject of the text to be amended is narrowly defined for determining a germane relationship. So, for example, an amendment dealing with corporate income taxes might not be germane to a proposition dealing with individual income taxes if the subject of the proposition is defined as individual income taxes. Or, an amendment dealing with individual income tax rates might not be germane to a proposition dealing with capital gains tax rates if the subject of the proposition is defined solely as capital gains tax rates. Or, an amendment to authorize additional appropriations for the Internal Revenue Service to collect unpaid taxes might not be germane to a proposition to change criminal penalties for tax evasion if the subject of the proposition is defined as criminal penalties.

The key purpose served by the narrow definition of subject developed in House precedents is summarized in *Deschler-Brown Precedents*:

> One important purpose of the germaneness rule is to prevent the House from having to consider matters for which it is not fully prepared. Thus, an amendment may be held to be germane only if its subject bears a certain relationship to that of the proposition sought to be amended. An informal criterion that appears from the rulings…may be that if the subject of a proposed amendment to a bill is not one that would reasonably be expected to be within the contemplation of those considering that bill, the amendment is probably not germane. Conversely, if consideration of the general subject matter of the amendment would naturally arise during consideration of the bill itself, it may be germane.[219]

Using the examples above, how could members expecting to debate and amend a proposition dealing with individual tax rates reasonably be prepared for amendments arising on corporate tax rates or any of the other myriad tax issues that abound? Similarly, members would not reasonably expect individual tax rates, among myriad tax issues, to "naturally arise" in amendments when the proposition under consideration deals with capital gains tax rates or an authorization for collecting unpaid taxes, among myriad tax issues, to arise in amendments when the proposition under consideration deals with criminal penalties for tax evasion.

The germane relationship of an amendment to a proposition, as these examples might suggest, entails more than relevance. Taxes generally is most likely not the basis for a germane relationship between the subjects of these amendments and the subjects of the propositions they

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[217] Lewis Deschler and Wm. Holmes Brown, *Deschler-Brown Precedents of the United States House of Representatives*, vol. 10, ch. 28, §§ 1-2, 94th Cong., 2nd sess., H.Doc. 94-661 (Washington, DC: GPO, 1993), pp. 5-7 and 9-12. See also §§ 17-21 and 24, pp. 865-991 and 1013-1030. (Hereinafter *Deschler-Brown Precedents*, vol. 10.) Available online from GPO at https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=GPO&browsePath=Precedents+of+the+U.S.+House+of+Representatives%2F010-Deschler%27s+Precedents&isCollapsed=false&leafLevelBrowse=false&isDocumentResults=true&ycord=0.

[218] *Congressional Quarterly's American Congressional Dictionary*, p. 112.

[219] *Deschler-Brown Precedents*, vol. 10, ch. 28, § 1, p. 6.

are proposed to amend. In *Deschler-Brown Precedents*, the comment is found: "Of course, the fact that two subjects are related does not necessarily render them germane to each other. 'Germaneness'…implies more than 'relevance.'"[220] Germaneness appears closer in meaning to pertinence, but even different from that: the House's definition of a germane relationship is grounded in thousands of precedents.

The thousands of precedents on the germane relationship between amendments and the texts proposed to be amended emanated from rulings on points of order by the presiding officer in the House and the Committee of the Whole and from occasional appeals of those rulings. Members raised points of order on the House floor, on which rulings were made. Those precedents, like other House rules and precedents, are binding on committees in markup.

The germaneness rule, also like most other House and committee rules, is not self-enforcing. Rather, as explained above (see "11. Points of Order"), a member in markup must make a point of order if he or she believes a House or committee rule is being violated. Therefore, a member believing an amendment is not germane would make a point of order against the amendment based on the House's germaneness rule. The burden is then on the amendment's proponent to argue an amendment's germaneness. If the point of order is sustained by the chair, the amendment's consideration is precluded in committee. If the point of order is overruled by the chair, the amendment is considered in committee.

Over the course of many years, House parliamentarians classified precedents on the germane relationship between amendments and the texts they propose to amend through tests, principles, and applications. The House germaneness rule refers just to *subject*; all of the precedents are explications of this criterion. Whether in drafting an amendment so that it is germane or in arguing either side of a point of order that an amendment is not germane, a member will need to turn to these tests, principles, and applications to understand the basis on which a germane relationship exists.[221]

A member offering an amendment and a member thinking an amendment might be challenged on a point of order must first consider the text to which the amendment must be germane. An amendment's proponent, then, is well advised to seek the assistance of the Offices of Legislative Counsel and the Parliamentarian in drafting an amendment prior to a markup. In reserving or making a point of order, a committee member might consider the three basic tests of a germane relationship between an amendment and the text proposed to be amended—subject-matter, fundamental purpose, and committee jurisdiction. There are also principles and applications by which to assess a germane relationship between an amendment and the text proposed to be amended. The text to which an amendment must be germane and some of the main and frequently invoked attributes of the germaneness tests, principles, and applications are examined in sections 11.5.1. through 11.5.12.

11.5.1. Text to Which an Amendment Must Be Germane

The initial question in understanding a germane relationship between an amendment and the text it proposes to amend is identifying, based on the precedents, what is the unit of text to which the amendment must be germane. Normally, the text may be a section (or paragraph) of a measure or other markup vehicle, a larger unit of text than a section, the entirety of a measure, or another

[220] Ibid., § 3, p. 68. Footnotes in text omitted.

[221] A succinct orientation to germaneness appears in *House Practice*, ch. 26, § 2, pp. 545-547.

amendment. Stated succinctly, an amendment must be germane to the unit of the measure or matter it proposes to amend.[222]

If an amendment is offered to a section (or paragraph), a germane relationship must exist between the amendment and that specific section. If an amendment is offered to a title, a germane relationship must exist between the amendment and that specific title.

How a measure is being read for amendment, however, can affect the determination of the text to which an amendment must have a germane relationship between, for example, an amendment to add a new section. If a measure is being read by title, a germane relationship must exist between an amendment offered to a title and the text of the title. If a measure is open to amendment at any point, a germane relationship must exist between the amendment offered and the text of the entire measure. Reading a measure for amendment by a larger unit than section or making a measure open to amendment at any point might then open new opportunities for the proponent of an amendment, both in the wider text against which a germane relationship is measured and in the types of changes—amendments to several specific sections, changes encompassing several sections, or the addition of new sections—that might be offered.[223]

The timing of offering an amendment—the stage of reading a measure for amendment—can also affect the determination of the text with which an amendment must have a germane relationship between. If an amendment is proposed to add a new section at a place in a measure before the final section, a germane relationship must exist between the amendment and the sections read so far for amendment. If an amendment is proposed to add a new section after the last section of a measure, a germane relationship must exist between the amendment and the text of the measure. For the proponents of an amendment, then, an amendment might not be germane if offered early in the amendment process but might be germane if offered later.[224]

Changes already made to a measure also affect the determination of the germane relationship between an amendment and text. In general, an amendment must be germane to the text as so far amended, whether that is a section or a larger portion of text. If a section has been amended, a germane relationship must exist between an amendment to the section and the text of the section as it has already been amended. If an amendment is proposed to add a new section, a germane relationship must exist between the amendment and the sections already read for amendment and as they have already been amended. In some instances, changes might provide additional opportunities to an amendment proponent, for example, broadening the subject of a measure sufficiently to make an amendment germane that previously would not have been. In other instances, if amendments to strike one or more sections have been agreed to, some amendments might be precluded because the text to which they would have been germane has been stricken.

For an amendment in the nature of a substitute, although offered to the first section of a measure, a germane relationship must exist between it and the text of the entire measure. This germane relationship is not necessarily invalidated by an "incidental portion of the amendment that, if offered separately, might not be germane to the portion of the bill to which offered…."[225]

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[222] Ibid., § 3, pp. 547-548, and §§ 15-16, pp. 579-580; and *House Rules and Manual*, § 929, pp. 728-730. This section of the markup manual is based on these and other relevant sections of *House Practice* and *House Rules and Manual*.

[223] Other considerations are also at play, such as the adoption of an amendment encompassing a large portion of text could preclude additional amendments. For example, if a measure is being read by title and an amendment is adopted that amends a whole title, further amendments would be precluded by House precedents generally disallowing amendments to previously amended text. See "9.8.3. Amending Amended Text."

[224] *House Practice*, ch. 26, §§ 14-18, pp. 579-580; and ch. 37, § 2, p. 682.

[225] *House Rules and Manual*, § 929, p. 730.

Concerning an amendment to an amendment, a germane relationship must exist between the amendment and the amendment proposed to be amended. The germane relationship is not between a substitute or second-degree amendment and the text of the underlying measure but between it and the first-degree perfecting amendment. Similarly, when an amendment is offered to an amendment in the nature of a substitute, a germane relationship must exist between the amendment and the amendment in the nature of a substitute, not the text of the underlying measure. The form of an amendment, then, might make a difference in deciding whether a germane relationship exists between an amendment and the text proposed to be amended. An amendment offered as a substitute might not be germane to the perfecting amendment for which it is an alternative. However, the same amendment, offered as a perfecting amendment, might be germane to the text of the section or title it proposes to amend.

Where an amendment to strike is pending, the germane relationship must exist between a perfecting amendment then offered and the underlying text proposed to be amended. A perfecting amendment must have a germane relationship to the paragraph, section, or title proposed to be stricken, not to the motion to strike. As explained earlier, the motion to strike does not appear on the amendment tree, but is held in abeyance pending an opportunity for one or more members to seek to "perfect" through amendment the text proposed to be stricken. (See "9.6.4. Precedence of Amendments When Their Form Is To Strike, or To Strike and Insert, an Entire Section of Base Text.")

The germaneness rule applies to amendments to measures. It does not apply to measures as introduced or to the different provisions within these measures. Two different provisions of a measure might address two completely different subjects, or three different provisions of a measure might address three completely different subjects. A germaneness point of order based on Rule XVI, clause 7 does not lie against a measure, against the different provisions included in it, or against amendments germane to those provisions.[226]

11.5.2. Tests, Principles, and Applications of the Germaneness Rule

With the text identified with which an amendment must have a germane relationship, the question then is whether that germane relationship exists. *House Practice* explains, "It is a fundamental rule of the House that a germane relationship must exist between an amendment and the matter sought to be amended."[227] Here, the aforementioned tests, principles, and applications, into which the House parliamentarians have classified precedents on the germane relationship between amendments and the texts they propose to amend, are employed. As indicated earlier, each of these tests, principles, and applications are explications of the term *subject* in the House's germaneness rule. They are summarized here, and each one is examined briefly following this section in terms of some of their main and more frequently invoked attributes.

[226] The House does not have a one-measure, one-subject rule as some legislative bodies do. As introduced, a bill or resolution may touch on more than one subject, and no germaneness point of order would lie against it. In addition, in the House or the Committee of the Whole, the suspension of the rules procedure or the adoption of a special rule waiving points of order has the effect of suspending or waiving the rule against nongermane amendments. *House Practice*, ch. 26, § 1, p. 545. Other House rules than the germaneness rule, however, may provide a basis for attacking provisions included in a measure. For example, Rule XXI, cl. 2 disallows unauthorized appropriations and changes to existing law in appropriations bills. Again, the suspension of the rules procedure or the adoption of a special rule waiving points of order may have the effect of suspending or waiving the operation of these other rules. See "16. Options for House Floor Consideration."

[227] *House Practice*, ch. 26, § 1, p. 544.

To be germane, an amendment is measured against tests, principles, and applications. Although a germane relationship might be found between an amendment and the text proposed to be amended using one test, a germane relationship might be found *not* to exist using another test. A chair will then rule on a point of order that the amendment is not germane.[228]

As a matter of practice, in arguing a point of order that an amendment is not germane, members regularly rest their arguments on the test or tests that most strongly defend their side. These are tests and principles applied in different parliamentary contexts, not rules of such clarity that can be applied mechanically, as the preceding section on determining the text with which amendment must have a germane relationship so clearly illustrates. All of the words used in an amendment—the keying language as well as the substantive language of the amendment—will matter. Members make procedural arguments on a point of order; they do not argue an amendment's merits, which are largely irrelevant. Since germaneness rests on each test and principle, a chair cannot make a rote decision on germaneness, but must consider the existence of *the* specific germane relationship challenged by a point of order.

The three basic tests of a germane relationship, listed without reference to priority or order of consideration, are

- subject-matter (see section 11.5.4.),
- fundamental purpose (see section 11.5.5.), and
- committee jurisdiction (see section 11.5.6.).

The subject-matter test is an explication of subject in the germaneness rule. It is not a synonym. Precedents related to subject matter inquire whether an amendment raises a subject different from the subject of the text proposed to be amended.[229] The fundamental purpose test is used to determine whether the purpose or objective of an amendment, or the method of achieving the purpose or objective, is related to the purpose, objective, or method in the text proposed to be amended.[230] The committee jurisdiction test inquires whether the subject of the amendment lies within the jurisdiction of the committee with jurisdiction over the proposition proposed to be amended.[231]

The three principles on the germane relationship of specific and general propositions are

1. an individual proposition class may not be amended by another individual proposition (see section 11.5.7.), and
2. a specific subject may not be amended by a provision general in nature (see section 11.5.8.), but
3. a general subject may be amended by specific propositions of the same class (see section 11.5.9.).

The first principle prevents an individual proposition from being broadened and made general through an amendment adding another individual proposition.[232] The second principle likewise prevents an individual proposition from being broadened and made general through an

[228] *House Rules and Manual*, § 935, p. 743; and *House Practice*, ch. 26, § 4, p. 549.

[229] *House Practice*, ch. 26, § 5, p. 550.

[230] Ibid., § 7, pp. 559-560.

[231] Ibid., § 6, pp. 554-555. A different point of order based on committee jurisdiction itself is discussed below. See "11.6. Rule X Committee Jurisdiction Point of Order."

[232] *House Practice*, ch. 26, § 9, pp. 565-566.

amendment adding a general provision.[233] However, the third principle allows a general subject to be amended by a specific proposition of the same class. This principle allows amendments that might add one more like item to a list or attach specific provisions concerning an item on the list, so long as an amendment is otherwise germane.[234]

Three specific applications of the germaneness rule are

1. to amendments related to studies (see section 11.5.10.);
2. to amendments imposing conditions, qualifications, or limitations (see section 11.5.11.); and
3. to amendments to bills amending existing law (see section 11.5.12.).

Unlike the tests and principles, which are general or broad, these applications concern specific content that might appear in amendments.

11.5.3. Sources of Information on Tests, Principles, and Applications

The sections following briefly examine these tests, principles, and applications. The sections include examples to illustrate each test, principle, or application. The examples were taken from the relevant pages of *House Rules and Manual* and *House Practice*. The reader will likely discern that some examples could illustrate more than one test, principle, or application.

The footnote citations associated with the examples are to relevant pages of *House Rules and Manual* and *House Practice*, where additional explanation and many additional examples are available of specific amendments found to be germane or not germane. *Deschler-Brown Precedents*, volumes 10 and 11, contain thousands more examples, arranged in greater organizational detail. In seeking options for drafting a germane amendment or in arguing a side of a point of order that an amendment is not germane, a committee member might wish to review relevant precedents to find closely analogous parliamentary conditions. With the thousands of precedents and the procedural nuance of so many rulings of the chair, it is not practical to go beyond the examination of germaneness made in this part of the manual.

House Rules and Manual is updated biennially after the start of a new Congress; the edition used for this manual was published in 2017. An updated *House Practice* was also published in 2017. Volumes 10 and 11 of *Deschler-Brown Precedents* were published in 1993.

11.5.4. Subject-Matter Test

The subject-matter test inquires whether an amendment introduces a new subject to the text proposed to be amended. If the amendment introduces a new subject, a point of order could be sustained against it. An explanation of subject matter is provided in *Deschler-Brown Precedents:*

> A broad requirement of the germaneness rule is that an amendment relate to the subject matter under consideration. It has been said,
>
> "The fundamental test of germaneness … is that a proposition submitted must be akin and relative to the particular subject matter to which the proposition is offered as an amendment."

[233] Ibid., § 10, p. 569.

[234] Ibid., § 11, p. 573.

> Thus, an amendment relating to a subject to which there is no reference in the text to which offered may not be germane to the bill.[235]

It is important to remember here that subject is narrowly defined so that subject matter under the precedents is likewise narrowly defined in determining whether an amendment introduces new subject matter. Two examples from the many in *House Rules and Manual* might help to illustrate the application and complexity of the subject-matter test. A bill provided for an interoceanic canal by one route; an amendment providing a different route was germane. The ruling here seemed to turn on a route as the subject matter rather than the specific route, making the amendment germane. A bill, however, sought to eliminate wage discrimination based on the sex of an employee; an amendment to make the bill's provisions applicable to discrimination based on race was not germane. Here, discrimination based on sex appears to be the subject matter, rather than wage discrimination.[236] (This amendment is possibly an example of one that might also have been challenged as not germane based on a broadening of the individual proposition. See "11.5.7. Individual Proposition or Class Not Germane to Another.")

11.5.5. Fundamental Purpose Test

Another germaneness test is that of fundamental purpose. This test might be applied in one of two ways. It might look to the purpose or objective of an amendment, or it might look to the method of achieving the purpose or objective. An amendment that fails the fundamental purpose test might be ruled to be not germane. An explanation of fundamental is provided in *Deschler-Brown Precedents:*

> In determining whether an amendment is germane, it is often useful—especially when the amendment is in the nature of a substitute for the pending text—to consider whether its fundamental purpose is related to the fundamental purpose of the bill to which offered.
>
> The Speaker or Chairman considers the stated purposes of a bill and the amendment, although not the motive or intent of the proponent of the amendment which circumstances might suggest, in ruling on the germaneness of a proposed amendment. If the purpose or objective of an amendment is different from that of the bill to which it is offered, the amendment may be held not to be germane. For example ... to a bill relating to the minting and issuance of public currency, amendments providing for minting a coin for a private purpose or for a commemorative or collector's coin have been held to be not germane.[237]

Deschler-Brown Precedents further explains at another place:

> In summary, the fact that a bill and amendment have a similar purpose and goal is not conclusive in judging the germaneness of the amendment. Generally, to a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane; and it is probably not too strict to say that, where the amendment deals with a subject to which there is no reference in the bill, or which is within the jurisdiction of another committee than the scheme proposed by the bill or pending text, a point of order based on clause 7, Rule XVI may be sustained.[238]

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[235] *Deschler-Brown Precedents*, vol. 10, ch. 28, § 3, p. 68. Footnotes in text omitted.

[236] *House Rules and Manual*, § 932, pp. 732-734. See also *House Practice*, ch. 26, § 5, pp. 550-553.

[237] *Deschler-Brown Precedents*, vol. 10, ch. 28, § 5, pp. 371-372.

[238] Ibid., § 6, pp. 426-427.

Under this test, subject in the germaneness rule is interpreted to mean purpose or objective or method of achieving the purpose or objective. Regarding purpose or objective, two examples from *House Rules and Manual* help illustrate this test. First, an amendment in the nature of a substitute to a bill on national petroleum reserves on public lands contained a provision referring to a strategic petroleum reserve that might be created by Congress in the future, a matter not contained in the committee-reported bill. The parliamentarian's notes on fundamental purpose reiterated the comments cited above concerning the text to which an amendment must be germane:

> To a bill proposing to accomplish a result by methods comprehensive in scope, an amendment in the nature of a substitute seeking to achieve the same result was held germane where it was shown that additional provisions not contained in the original bill were merely incidental conditions or exceptions that were related to the fundamental purpose of the bill….[239]

The amendment in the nature of a substitute, then, did not founder on the germaneness rule with the inclusion of these "incidental" conditions that otherwise related to the fundamental purpose of the bill.

Second, when the House considered a bill authorizing states' attorneys general to bring a civil action in federal court against a person who violated state law regulating liquor, an amendment was ruled not germane, based on the fundamental purpose test, that singled out "certain violations of liquor laws on the basis of their regard for any and all firearms issues." Here, the fundamental purpose seemed to relate to the enforcement of state liquor laws. The parliamentarian's notes in the *House Rules and Manual* comment that the amendment "singl[ed] out one constituent element of a larger subject for specific and unrelated scrutiny" and was therefore not germane.[240] In arguing against such a point of order, an amendment's proponent might rely on the principle that he or she is offering a specific amendment to a general proposition. (See "11.5.9. Specific Subjects Germane to General Propositions.")

As indicated, another aspect of the fundamental purpose test deals with the method of achieving an end, which the parliamentarian's notes in *House Rules and Manual* summarize as follows:

> In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill or other matter sought to be amended….[241]

A member considering a point of order might think about a regulatory method, a tax method, a criminal justice method, or a private enforcement method of achieving a purpose or objective. These are probably not interchangeable methods. Two examples in *House Rules and Manual* might help illustrate this aspect of the fundamental purpose test. In one measure, an end was to be accomplished by regulation by a federal agency. An amendment to accomplish the same end by regulation by a different federal agency was germane. The method—regulation—was the same, and a change of the agency charged with regulation was not found to change the method. In another bill, financial assistance was made available to unemployed persons for employment opportunities. An amendment was not germane that instead provided tax incentives to stimulate

[239] *House Rules and Manual*, § 933, pp. 735.

[240] Ibid., p. 735. See also *House Practice*, ch. 26, §§ 7-8, pp. 559-563.

[241] *House Rules and Manual*, § 933, p. 735.

employment. The method of a tax program was a different method from the method of a financial assistance program.[242]

11.5.6. Committee Jurisdiction Test

The germaneness test of committee jurisdiction inquires whether an amendment to a proposition is within the jurisdiction of the same committee as the proposition. This test has more applicability on the House floor than in committee because a referral to a committee is normally for the consideration of those provisions of a measure within the committee's jurisdiction. In committee, a member is more likely to challenge the jurisdictional authority of a committee to consider an amendment, basing a point of order on committees' jurisdiction in Rule X. (This point of order is examined below in "11.6. Rule X Committee Jurisdiction Point of Order.")

Rather, committees that receive an additional initial referral or a sequential referral might use an amendment in the nature of a substitute that consists of those provisions clearly within their jurisdiction. This approach obviates a potential Rule X point of order in the course of a markup. In following this course, a chair could explain jurisdictional limitations in discussing the amendment in the nature of a substitute the chair has offered.

An explanation of the committee jurisdiction test is provided in *Deschler-Brown Precedents:*

> In ruling on the germaneness of amendments to bills, the Chair has frequently considered whether the subject matter of the amendment falls within the jurisdiction of the committee reporting the bill. Thus, in some cases, lack of such committee jurisdiction may at the outset cause the Chair to uphold a point of order against the amendment. On the other hand, in other cases, even the fact that a subject has in fact been considered by a committee during its markup of a particular bill does not determine the germaneness of an amendment concerning such subject when offered on the House floor.
>
> … Committee jurisdiction of a subject is not necessarily determinative on questions of germaneness, however; the modern tendency seems to be to view such jurisdiction as but one factor in the determination of the germaneness of amendments.
>
> In particular, Committee jurisdiction is not determinative as a test of germaneness of an amendment, where the text to which it is offered already contains matter that overlaps the jurisdiction of several committees, particularly where the amendment does not demonstrably affect a law within another committee's jurisdiction.[243]

This last sentence, in particular, shows the problem of trying to base a point of order on committee jurisdiction during a committee markup. The jurisdiction of the committee over the measure is limited by the measure's referral. *House Rules and Manual* and *House Practice* provide numerous examples of amendments ruled germane and not germane based on committee jurisdiction in the course of House consideration of legislation.[244]

Regarding the application of the committee jurisdiction test to an amendment in the nature of a substitute, the parliamentarian's notes in *House Rules and Manual* echo those related to the text to which an amendment in the nature of a substitute must be germane and also to the fundamental purpose test:

> The test of the germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and is not necessarily determined by the content of an

[242] Ibid., pp. 735, 737. *See also House Practice*, ch. 26, §§ 7-8, pp. 563-565.

[243] *Deschler-Brown Precedents*, vol. 10, ch. 28, § 4, pp. 189-190. Footnotes in text omitted.

[244] *House Rules and Manual*, § 934, pp. 738-743; and *House Practice*, ch. 26, § 6, pp. 554-559.

> incidental portion of the amendment that, if considered separately, might be within the jurisdiction of another committee….[245]

This explanation may not turn aside a challenge to an amendment in the nature of a substitute in markup based on other tests or principles of germaneness or Rule X committee jurisdiction, but it may assist a committee on the House floor if a special rule does not waive potential points of order against a committee-reported amendment in the nature of a substitute based on germaneness.

11.5.7. Individual Proposition or Class Not Germane to Another

The parliamentarian's notes in *House Rules and Manual* posit this principle thus: "One individual proposition may not be amended by another individual proposition even though the two belong to the same class." Among the examples included in these notes to illustrate the principle is this one: "…to a provision for extermination of the cotton-boll weevil, an amendment including the gypsy moth [was not germane]…." It can be argued that the cotton-boll weevil and the gypsy moth are in the same class, which might be defined as crop-destroying pests or in another way, but the text contains an individual proposition.[246]

As indicated earlier, this principle and the principle covered in the next section—a general provision is not germane to a specific subject—seek to ensure that the subject of the underlying proposition is not broadened, or made general, and therefore changed through amendment, if a member raises a point of order to prevent this possibility. This principle applies to individual propositions in the same class and to individual classes. So, an amendment to add an individual proposition to another or to add an individual class to another may be found to be not germane.

Two examples from *Deschler-Brown Precedents* might help illustrate some of the complex distinctions this principle seeks to enunciate. In the first example, a measure mandated a study of equitable pay practices for certain employees in certain occupations in the federal executive branch. A measure sought to make the study applicable to federal executive-branch employees in the same occupations working under collective bargaining agreements. The chair ruled that the amendment could be construed to cover a different category of employees than covered by the measure and was not germane, citing a precedent on different classes of federal employees. Here, the ruling viewed the employees described in the amendment as potentially a different class from the class of employees described in the measure.[247]

In the second example, the measure contained a provision dealing with prepayment of certain Rural Electrification Administration (REA) loans by a borrower that "serves 6 or fewer customers per mile…." An amendment sought to eliminate the population density criterion. The chair ruled that the amendment related to the same *class* of borrowers, only broadening the number of borrowers in the same class qualifying under the measure. The chair found the class to be REA borrowers and that the amendment only broadened the class that the text had narrowed. The amendment, in the chair's view, did not add a new class of borrowers.[248]

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[245] *House Rules and Manual*, § 934, p. 742.

[246] Ibid., § 936, pp. 744-746. *See also House Practice*, ch. 26, § 9, pp. 565-569.

[247] *Deschler-Brown Precedents*, vol. 10, ch. 28, § 13.1, pp. 762-765.

[248] Ibid., § 12.1, pp. 746-748.

11.5.8. General Provision Not Germane to a Specific Subject

The parliamentarian's notes in *House Rules and Manual* posit this principle thus: "A specific subject may not be amended by a provision general in nature, even when of the class of the specific subject…." Among the examples included in these notes to illustrate the principle is this one: "…to a bill authorizing funds for radio broadcasting to Cuba, an amendment to include broadcasting to all dictatorships in the Caribbean Basin [was not germane]…."[249]

Like the previous principle—an individual proposition or class is not germane to another—this principle also seeks to ensure that the subject of the underlying proposition is not broadened, or made general, and therefore changed through amendment, if a member raises a point of order to prevent this possibility. This principle applies to general propositions, even when the item in the underlying text is in the class proposed to be added by the amendment. So, an amendment to add a general proposition to a specific proposition may be found to be not germane.

Two examples cited in the parliamentarian's notes in *House Rules and Manual* illustrate the complex parliamentary challenges this principle addresses. In the first example, a measure made a temporary change in a law. An amendment made the change permanent, and it was ruled not germane. In the second example, an amendment proposed to strike from a bill one activity so that it would not be covered by an existing law. A substitute for that amendment proposed to strike the entire subsection of the bill and thereby eliminate the existing law's application to a number of activities. The substitute amendment was ruled not germane. Regarding both of these examples, the parliamentarian's notes observe, "To a bill modifying an existing law as to one specific particular, an amendment relating to the terms of the law other than those dealt with by the bill is not germane…."[250] Each of these amendments proposed to change a specific proposition in underlying text into a proposition of broader applicability.

An interesting application of this principle is that an amendment to *strike text* from a measure may be not germane if, as a consequence of the amendment's adoption, what was specific in the underlying text becomes more broadly applicable,[251] or the subject or fundamental purpose is altered.[252] For example, a restriction on use of federal payments was included in an amendment to a District of Columbia appropriations bill. An amendment to the amendment struck the reference to federal payments, making the restriction applicable to other funding sources covered by the bill. The amendment was ruled not germane because it extended the scope of the restriction to a more general subject. It is important to keep in mind that amendments striking text can trigger any of the germane tests or principles just as much as amendments to add or amend text.[253]

11.5.9. Specific Subjects Germane to General Propositions

The parliamentarian's notes in *House Rules and Manual* posit this principle thus: "A general subject may be amended by specific propositions of the same class…." Among the examples included in these notes to illustrate the principle is this one: "…to a bill providing for the

[249] *House Rules and Manual*, § 937, pp. 746-748. *See also House Practice*, ch. 26, § 10, pp. 569-572.

[250] *House Rules and Manual*, § 937, p. 748. *See also Deschler-Brown Precedents*, vol. 10, ch. 28, § 24, pp. 1013-1030.

[251] *House Practice*, ch. 26, § 17, p. 580.

[252] *Deschler-Brown Precedents*, vol. 10, ch. 28, § 20, p. 941.

[253] Ibid., § 9.15, pp. 582-583.

construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities [is germane]….”[254]

Unlike the previous two principles, this principle may allow certain amendments as germane. A proposition’s broad purpose or objective, or diverse methods of achieving the purpose or objective, may allow specific or narrow amendments to be found germane if they are within the scope of the proposition.[255] Here, the underlying proposition is not a specific or individual proposition or class, but a general subject. The consideration for purposes of germaneness is whether an amendment is within the scope of the general subject. The following two sets of examples show ways in which this principle has been applied.

A measure may include a number of methods to accomplish a general purpose. Under these circumstances, an amendment adding a specific method to diverse methods to accomplish a bill’s general purpose of support for the arts and humanities was held to be germane. In another instance, broad authority was granted in a measure to the President to minimize the impact of energy shortages on employment. An amendment authorized the President to undertake a specific approach to carry out this broad authority. The chair ruled the amendment germane.

Another application of this principle is to measures containing two or more propositions in a class. A bill proposed to admit several territories into the Union. An amendment to admit another territory was held to be germane. In contrast, this principle does not allow an item outside a class to be added by amendment. For example, a bill authorized the Secretary of the Treasury to strike two national medals commemorating the nation’s bicentennial. An amendment permitting private mints to strike state medals was ruled not germane.

11.5.10. Studies

An issue of subject-matter germaneness sometimes arises in conjunction with measures and amendments that direct studies to be made. A measure might provide for a study, and an amendment might be proposed to change a study to an activity. Alternately, a measure might provide for an activity, and a proposal might be made to change the activity to a study.

Proposing to change a study to an activity may present a germaneness issue. The subject matter here appears to be the study. However, if the activity is part of the study, such as making a report or recommending draft legislation, the change proposed may be germane. Proposing to change an activity to a study, on the other hand, might not present a germaneness issue if the proposed study is otherwise germane. Here, the subject matter appears to be the subject of the activity rather than the activity itself.[256] In either instance, a member arguing either side of a germaneness point of order where a study is involved might also wish to argue based on fundamental purpose.

11.5.11. Amendments Imposing Conditions, Qualifications, or Limitations

An amendment that imposes a condition, qualification, or limitation must be germane to the underlying proposition. A point of order against an amendment containing a condition, qualification, or limitation may arise under one of the tests or principles of germaneness.[257]

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[254] *House Rules and Manual*, § 938, pp. 749-750. *See also House Practice*, ch. 26, § 11, pp. 573-574.

[255] *Deschler-Brown Precedents*, vol. 10, ch. 28, § 10, p. 651.

[256] *House Practice*, ch. 26, § 5, p. 554.

[257] *House Rules and Manual*, § 940, pp. 752-757. *See also House Practice*, ch. 26, §§ 21-26, pp. 581-591.

A specific proposition may amend a general subject. This principle allows otherwise germane amendments that make a specific exception to or exemption from a general proposition.

An amendment is germane if it addresses the same subject matter and fundamental purpose as the underlying text. A condition or qualification to be imposed by an amendment must relate to the subject matter and fundamental purpose of the underlying proposition.

11.5.12. Amendments to Bills Amending Existing Law

Amendments must address the subject of a bill, but questions frequently arise about bills as vehicles for amendments to existing law. If a bill contains narrow changes to an existing law, amendments to the existing law might be germane as long as they address the same subject matter. If a bill comprehensively amends an existing law, amendments might be germane that address other portions of the law than addressed by the bill. *Deschler-Brown Precedents* summarizes the germaneness of amendments to existing law thus:

> It has been held that the rule of germaneness applies to the relationship between a proposed amendment and the pending bill to which offered and not to the relation between such amendment and an existing title of the United States Code which the pending bill seeks to amend…. [T]he germaneness of an amendment that proposes to change existing law may depend on the extent to which the bill itself seeks to change the law. A bill comprehensively amending several sections of existing law may be sufficiently broad in scope to admit as germane an amendment which is germane to another section of that law not amended by the bill. But where a bill amends existing law in one narrow particular, an amendment proposing to modify such existing law in other particulars will generally be ruled out as not germane.[258]

One set of precedents addresses the scope of a measure's changes to existing law, where chairs have decided whether a measure is such a comprehensive amendment of a law that amendments to it, in addition to the provisions specifically addressed in the measure, are germane. In one example, provisions in a measure made amendments to specific sections of the Regional Rail Reorganization Act. An amendment sought to make a change in a section of the act not included in the measure. The chair ruled that the measure was such a comprehensive amendment of the act as to permit germane amendments to any portion of the law. In contrast, a measure contained an amendment to the National Defense Education Act pertaining to foreign languages. An amendment sought to prohibit a grant, contract, or support under the act pertaining to secular humanism. The chair ruled that the provision in the bill was specific while the amendment was not germane because it applied to the whole of the act.

Another set of precedents address measures that continue or re-enact an existing law, perhaps making amendments to change the law germane. Reauthorizations of the Federal Energy Act and the Mexican farm labor program were sufficiently broad or comprehensive for amendments to specific portions of the laws to be held germane. However, where a bill amends an existing law narrowly or in a particular way, amendments addressing portions of the law not addressed by the bill may be ruled not germane. In one instance, a bill amended one provision of the Agricultural Adjustment Act. An amendment to repeal the law was ruled not germane. In another instance, several sections of the National Labor Relations Act involving procedural rules for labor elections

[258] *Deschler-Brown Precedents*, vol. 11, ch. 28, § 35, p. 400. Footnotes in text omitted. See also *House Rules and Manual*, § 939, pp. 750-752; and *House Practice*, ch. 26, §§ 27-31, pp. 592-597.

were amended. An amendment dealing with a different section of the act and a different subject under the act was ruled not germane.[259]

The subject-matter test also prevents changes to one existing law from opening a related but different existing law to amendment. For example, a measure amended the Federal Aviation Act. An amendment offered to an air competition law, a different law, was ruled not germane.

Bills might also reference laws, and precedents indicate whether a reference allows an amendment to a law. In one example, a bill amended one law to grant benefits to merchant mariners substantially equivalent to the benefits granted to veterans in another law. The two laws were within the jurisdiction of different committees. An amendment to the second law was held not germane. In another example, one committee's bill incorporated by reference the provisions of a law within the jurisdiction of a second committee. In addition, the bill's effectiveness was conditioned on actions taken pursuant to a section of the referenced law. An amendment to the section of the referenced law was held germane.

11.6. Rule X Committee Jurisdiction Point of Order

Pursuant to Rule X (committee jurisdiction) and Rule XII (referral of measures), the Speaker often refers measures to more than one committee: provisions of such measures cover subjects within the jurisdiction of different committees and the Speaker is required by Rule XII to refer measures to "ensure to the maximum extent feasible" that each committee with jurisdiction over a provision in a measure may consider the relevant provision. When a measure is referred to more than one committee, the referral is normally limited as follows: "…in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned." (See "7.5. Markup Based on Sole, Primary, Additional Initial, or Sequential Referral.")

A member may make a point of order against an amendment, based on Rule X, to enforce the limitation in the Speaker's referral. A member would raise such a point of order as he or she would raise any point of order against an amendment.[260]

11.7. Constitutionality Point of Order

A member might also wish to make a point of order against an amendment based on the Constitution, for example, that an amendment violates a specific constitutional proscription, such as the ex post facto clause;[261] that it unconstitutionally intrudes on the powers of the executive or judiciary; or that it otherwise violates the Constitution. Under House precedents, the chair does not rule on such a point of order and overrules it. The committee decides the issue in its disposition of the amendment.[262]

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[259] *House Rules and Manual*, § 939, pp. 750-752.

[260] *House Practice*, ch. 11, § 8, pp. 251-252. See also "11.5.6. Committee Jurisdiction Test."

[261] U.S. Const., art. I, § 9, cl. 3.

[262] Lewis Deschler, *Deschler's Precedents of the United States House of Representatives*, vol. 5, ch. 19, §§ 7.1 and 8.10, 94th Cong., 2nd sess., H.Doc. 94-661 (Washington, DC: GPO, 1977), pp. 93 and 120-121. Available online from GPO at https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=GPO&browsePath=Precedents+of+the+U.S.+House+of+Representatives%2F010-Deschler%27s+Precedents&searchPath=Precedents+of+the+U.S.+House+of+Representatives%2F010-Deschler%27s+Precedents&leafLevelBrowse=false&isCollapsed=false&isOpen=true&ancestors=root&packageid=GPO-HPREC-DESCHLERS-V5&ycord=0.

11.8. Matters Not Subject to a Point of Order

Through time, precedents have developed concerning points of order on which a chair will not rule. For example, an amendment might be offered that is inconsistent with text in a measure or with another amendment previously agreed to. The chair will overrule a point of order made on that basis. The committee decides the issue in its disposition of the amendment.

Other matters on which a chair will not rule include the merits of a legislative proposition, the meaning or effect of an amendment, hypothetical questions, the propriety or expediency of a proposed course of action, contingencies that might arise in the future, issues not presented in a point of order, the result of a vote, or the rules or procedures of Senate. These kinds of issues may be discussed in debate on amendments or on the measure being marked up.[263]

12. Motions, Requests, and Demands

Committee members may make various motions, requests, and demands during a markup. Several motions that might occur at the beginning of a markup were discussed above. The motion to amend has already been extensively examined above. The motion to limit or close debate was described in conjunction with debate on amendments. The parliamentarian's notes in the *House Rules and Manual* to Rule XI, clause 2(a) state that committees "may employ the ordinary motions that are in order in the House, such as under clause 4 of rule XVI."[264]

Rule XVI, clause 4, Precedence of Motions, lists these motions: "(1) To adjourn. (2) To lay on the table. (3) For the previous question. (4) To postpone to a day certain. (5) To refer. (6) To amend. (7) To postpone indefinitely." Under this rule, a motion to lay on the table, for example, yields to a motion to adjourn, and a motion to table may not be entertained while a motion to adjourn is pending.[265]

If a member wishes to make a motion, he or she must obtain recognition from the chair; a member cannot normally make a motion on another member's time. A chair is ordinarily bound to recognize a member seeking to make a motion in order under House rules and precedents. A chair may not, however, entertain a dilatory motion, determining from the circumstances under which a motion is made whether the proponent's sole intent is delay.[266] A chair might make a practice of asking each member seeking recognition, "For what purpose does the member seek recognition?" A member's answer to the query allows the chair to determine whether the member's purpose has precedence over whatever matter is pending and is in order at the time.[267]

A motion must be in writing when demanded by a member.[268] Some motions, such as to postpone to a date certain or to amend, are amendable and debatable; other motions, such as for the previous question or to table, are not amendable or debatable.[269] The chair must state or the clerk

[263] *House Practice*, ch. 2, § 38, p. 52; and ch. 37, § 7, pp. 686-687.

[264] *House Rules and Manual*, § 792, p. 561.

[265] *House Practice*, ch. 2, § 9, p. 23. Precedence is defined thus: "The order in which amendments and other motions may be offered and acted on…. When a motion is pending, a motion of higher precedence may be offered and must be disposed of first." *Congressional Quarterly's American Congressional Dictionary*, p. 182.

[266] Rule XVI, cl. 1; and *House Practice*, ch. 32, § 4, p. 647. A chair may find a member's motion to be dilatory on his or her own initiative, but more often responds to a point of order by a committee member.

[267] *House Practice*, ch. 32, §§ 1 and 3-4, pp. 645-647.

[268] Rule XVI, cl. 1; and *House Practice*, ch. 32, § 2, pp. 645-646.

[269] *House Practice*, ch. 2, § 10, pp. 24-25; and ch. 16, § 9, pp. 394-395.

read the motion before any debate that is allowed begins.[270] Other motions may have precedence over a specific motion or yield in precedence to one or more other motions.[271] A motion may be withdrawn before a decision or action, such as the offering of an amendment if amendments to it are in order.[272] **Table 1** highlights some of the key features of a number of motions, demands, and requests available during committee markups; these features are examined more fully in this section or elsewhere in the manual where the motion or request appears because of its relationship to a specific stage of a markup. (See also **Appendix I,** Sample Scripts for Selected Motions and Requests in the Amendment Process.)

Requests and demands are varied. They may be made by a member who has been recognized, perhaps in the course of debate the member is engaged in, or they might be made by a member who has not been recognized because the request or demand must be timely made.

Table 1. Motions, Requests, and Demands Commonly Made in Committee Markups

Motion	Procedure (Debatable/Amendable)	Comments	Section Location in This Manual
Adjourn	Not debatable or amendable	Highly privileged; may not be tabled; vote on agreeing to motion may be reconsidered; intervening business must occur before motion is made again; quorum need not be present	"12.1. To Adjourn"
Amend	Debatable and amendable	Motion to strike, to insert, to strike and insert, or to strike all after the enacting clause (or resolving clause) and insert	"9. Reading a Measure for Amendment"
Amendments en bloc	Debatable and amendable	Unanimous consent required to consider amendments en bloc; subject to demand for division	"9.8.5. En Bloc Amendments"
Appeal ruling of the chair	Debatable in most instances	May be tabled Not all decisions or rulings are subject to an appeal	"11.4. Appeal of the Chair's Ruling"
Authorize the chair to offer motions in the House to go to conference		Usually agreed to by unanimous consent; may be covered by a committee rule	"14.4. Actions by a Committee in the Course of Reporting"
Base text for the purpose of amendment, Make		Unanimous consent needed	"7. Procedural Strategy and the Choice of a Markup Vehicle"
Close/limit debate	Amendable, not debatable	May not be tabled	"9.9.3. Limiting or Closing Debate"

[270] Ibid., ch. 32, § 2, p. 646.

[271] Ibid., § 1, p. 645.

[272] Rule XVI, cl. 2; and *House Practice*, ch. 32, § 5, pp. 647-648.

Motion	Procedure (Debatable/Amendable)	Comments	Section Location in This Manual
Commit/recommit to a subcommittee	Debatable; may be amendable	May be tabled	"12.2. To Commit or Recommit to a Subcommittee"
Discharge a subcommittee		Usually done by unanimous consent; may be covered by a committee rule	"12.3. To Discharge a Subcommittee"
Division of the question		Individual member may demand; decided by chair, subject to appeal; point of order may be made against demand	"13.5. Divisibility of a Question"
Division vote		Members have right to demand	"13.1. Forms of Voting"
Executive session, Meet in	Not debatable	Available only in limited situations, pursuant to House Rule XI, cl. 2(g) and (k)	"3.2. Meetings"
Modify an amendment		Unanimous consent required	"9.8.6. Modifying an Amendment"
Original text for the purpose of amendment, Make		Unanimous consent needed	"7. Procedural Strategy and the Choice of a Markup Vehicle"
Parliamentary inquiry		Used to ask procedural and other queries of chair; not used to make substantive queries about legislation or amendments of chair	"10. Parliamentary Inquiries"
Point of order/reserve a point of order	Discussion at chair's discretion	On amendment, must be made or reserved prior to debate on proposition; debate on point of order must be on parliamentary issue, not merits of proposal; chair rules, but ruling may be appealed; on some matters of order, such as absence of a quorum or disorderly words, must be made when violation occurs	"11.1. Reserving or Making a Point of Order against an Amendment"
Postpone (consideration) to a day certain	Amendable, subject to debate in narrow limits	May be tabled; vote on motion may be reconsidered; may not be offered again on same day; may not set hour to resume consideration May not be used against an amendment or previous question	"8.5.2. Motion to Postpone"

Motion	Procedure (Debatable/Amendable)	Comments	Section Location in This Manual
Postpone (consideration) indefinitely	Debatable but not amendable	May be tabled; may not be offered again on same day	"8.5.2. Motion to Postpone"
Postpone a vote		A committee must have a rule allowing	"13.6. Postponing Votes"
Previous question	Not debatable or amendable	May not be tabled; may reconsider an affirmative vote 40 minutes of debate is allowed if motion is ordered on a proposition that is debatable on which no debate has occurred	"12.4. Previous Question"
Question of consideration	Not debatable	May not be tabled; may reconsider an affirmative vote	"8.5.1. Question of Consideration"
Reading (first reading) of measure, Waive	Not debatable	Motion in order if printed copies of measure have been available; may not be tabled; vote on motion may be reconsidered	"8.4. Calling Up and Reading the Measure"
Reading of an amendment, Waive		Unanimous consent required to waive; no motion to waive is available	"9.3. Reading an Amendment"
Recess	Not debatable	May not be tabled; vote on agreeing to motion may be reconsidered; within chair's authority and may be covered by a committee rule	"12.5. To Recess"
Reconsider	Debatable if question being reconsidered was debatable; if committee votes to reconsider, next vote is not debatable	May be tabled; maker of motion must have voted on prevailing side	"13.3. Motion to Reconsider"
Recorded vote		Sufficient second required to order; may be covered by a committee rule	"13.1. Forms of Voting"
Refer to subcommittee	Debatable and amendable	May be tabled; may be covered by a committee rule	"12.2. To Commit or Recommit to a Subcommittee"
Regular order		Any member may demand; committee must return to proper execution of rules and procedures	"11.2. Demand for Regular Order," and "8.6. Unanimous Consent"
Report (order reported)		Motion, if agreed to, sends marked up measure to House	"14. Reporting a Measure"

Motion	Procedure (Debatable/Amendable)	Comments	Section Location in This Manual
Report to full committee		If agreed to, sends marked up measure to full committee	"14. Reporting a Measure"
Strike the enacting clause	Not amendable	Adverse disposition of a measure	"9.8.9. Motion to Strike the Enacting Clause"
Table, Lay on the	Not debatable or amendable	If agreed to, kills proposal; may be reconsidered	"12.6. To Table"
Unanimous consent		Takes effect if no member objects	"8.6. Unanimous Consent"
Withdraw an amendment		Unanimous consent is not required before a recorded vote is ordered on the amendment or the amendment has been amended	"9.8.7. Withdrawing an Amendment"
Words taken down		Proceedings suspended while chair determines claim Member uttering words could be permitted to amend or withdraw offending words	"9.9.2.3. Disorderly Language or Words Taken Down"

Source: Prepared by Congressional Research Service.

12.1. To Adjourn

The motion to adjourn is highly privileged.[273] If agreed to, it immediately ends a committee's meeting. It is neither debatable nor amendable and is not subject to a motion to table. Although a motion to adjourn may be repeated in a markup meeting after intervening business, a chair could rule its offering to be dilatory ("made manifestly for delay") and not in order.[274] A quorum is not necessary to agree to a motion to adjourn. An affirmative vote for a motion to adjourn is subject to a motion to reconsider.[275]

A committee might proceed as follows if a member makes a motion to adjourn:

> **Member:** Madam Chairman, I seek recognition.
>
> **Chair:** For what purpose?
>
> **Member:** To move to adjourn.
>
> **Chair:** The gentleman is recognized.
>
> **Member:** I move that the committee do now adjourn.

[273] Privilege is defined thus: "An attribute of a motion, measure, report, question, or proposition that gives it priority status for consideration. That status may come from provisions of the Constitution, standing rules, precedents, or statutory rules." *Congressional Quarterly's American Congressional Dictionary*, p. 188.

[274] *House Practice*, ch. 32, § 4, p. 647.

[275] Ibid., ch. 1, §§ 2-9, pp. 2-8.

Chair: The gentleman moves that the committee do now adjourn. The question is on the gentleman's motion. All those in favor, say "aye." *(Pauses.)* All those opposed, say "no." *(Pauses.)* In the opinion of the chair, the [ayes/noes] have it and the motion [is/is not] agreed to.

A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

12.2. To Commit or Recommit to a Subcommittee

The motion to commit or recommit, as appropriate, a measure to a subcommittee has precedence over a motion to amend and a motion to postpone indefinitely. A motion to commit would be made if a subcommittee had not previously had the measure before it; a motion to recommit would be made if a subcommittee had had the measure before it. If agreed to, it sends a measure to a subcommittee. The motion is debatable and amendable and is subject to a motion to table. The motion may be made at any time during committee consideration of a measure.[276]

A committee in its rules might have provided for the referral and commital or recommital of a measure or matter to subcommittee or the discharge of a measure or matter from subcommittee.

A committee might proceed as follows if a member makes such a motion:

Member: Madam Chairman, I seek recognition.

Chair: For what purpose?

Member: To make a motion to commit.

Chair: The gentleman is recognized.

Member: I move that the measure under consideration be committed to the Subcommittee on [name] with an instruction to the subcommittee to hold hearings on the measure.

Another Member: I move to table the motion.

Chair: The gentleman moves to table the motion to commit the measure to subcommittee. The question is on the gentleman's motion. All those in favor, say "aye." *(Pauses.)* All those opposed, say "no." *(Pauses.)* In the opinion of the chair, the [ayes/noes] have it and the motion [is/is not] agreed to.

A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

12.3. To Discharge a Subcommittee

The motion to discharge a subcommittee from further consideration of a measure brings before a parent committee a measure that has been referred to subcommittee and not yet reported. If agreed to, it makes the measure available for the parent committee's consideration. The motion is

[276] Ibid., ch. 48, §§ 1-7, pp. 830-833. U.S. Congress, House of Representatives, Office of the Legislative Counsel, *Practice and Procedure in Committees, Proceedings, and Conferences of the House of Representatives* (Washington, DC: GPO, March 1992), p. 16. (Hereinafter *Practice and Procedure in Committees, Proceedings, and Conferences*.)

debatable, and it is arguably subject to a motion to table.[277] A committee would more likely discharge a subcommittee by unanimous consent, or committee rules might provide authority to the full-committee chair to discharge a subcommittee, perhaps subject to certain conditions.

Discharging a subcommittee from further consideration of a measure or matter occurs pursuant to committee rules, by motion, or by unanimous consent. It is a different process from the discharge process in the House, by which the House discharges a committee from further consideration of a measure or matter. The discharge process in the House commences with the filing of a discharge petition (see House Rule XV, clause 2).[278]

12.4. Previous Question

A motion to close debate on an amendment does precisely that: it stops the debate but it does not prevent committee members from offering additional amendments or making appropriate motions. Alternately, to end debate *and* preclude further amendments and motions, a member may move the previous question on a pending amendment and all amendments thereto. A member could also move the previous question against a section or another unit of a measure, if the measure is being read for amendment by section or by another unit. The previous question motion may generally be ordered on any debatable or amendable proposition.[279]

A member may also move the previous question on an entire measure and all amendments thereto, but only after the measure has been read in full for amendment, such as through the last section if read by section. If the committee had agreed by unanimous consent to dispense with the reading of the measure and to open it to amendment at any point, the previous question could be moved at any time. If an amendment in the nature of a substitute has been offered (and not made base text), the previous question could also be moved at any time. In these latter two instances, adoption of the motion for the previous question would end the debate and amendment process on the measure being marked up.[280]

The previous question, recognized under Rule XIX, clause 1, proposes to cut off debate, amendments, and motions so that a committee may vote on the matter on which the previous question is ordered. In the words of *Jefferson's Manual*, the previous question motion asks, "Shall the main question be now put?"[281] The motion is not debatable or amendable, and it is not subject to a motion to table.[282] Under Rule XVI, clause 4(a), the motion to adjourn has precedence over the motion for the previous question.[283] A motion to reconsider a vote ordering the previous question is in order.[284]

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[277] *Practice and Procedure in Committees, Proceedings, and Conferences,* pp. 16-17.

[278] Additional means for discharging a committee exist in the House, which are not described here. See "Discharge a Committee" in *Congressional Quarterly's American Congressional Dictionary.*

[279] *House Practice*, ch. 39, § 7, pp. 707-708.

[280] In the notes to Rule XI, cl. 2(a), the parliamentarian commented: "The motion for the previous question may be applied to a question under debate in the committee when it has been read (or considered as read) for amendment in its entirety." *House Rules and Manual,* § 792, p. 561.

[281] *Jefferson's Manual,* § XXXIII, in *House Rules and Manual*, § 452, p. 240; and *House Practice*, ch. 39, § 1, pp. 701-702, and § 9, pp. 710-711.

[282] *House Practice*, ch. 39, § 8, p. 709.

[283] See also Ibid., § 6, pp. 705-707.

[284] Ibid., § 9, p. 711, and § 14, pp. 714-715.

If the previous question is ordered, the committee moves immediately to a vote on approving the matter against which the previous question was ordered, or reads the next section or unit for amendment if the previous question was ordered against a portion of a measure. If the previous question motion is not agreed to, such further debate and amendment as are in order continue.[285]

If the previous question motion is made before debate begins, however, 40 minutes of debate may be demanded on the underlying matter. The demand must occur before the vote begins on the motion. If demanded, the 40 minutes of debate must be allowed, divided equally between a proponent and an opponent, before the vote on the matter on which the previous question was ordered. If some debate has occurred, the previous question may be moved and ordered and the committee immediately votes on the matter on which the previous question was ordered.[286]

If a member sought to end a committee's consideration of a section, a committee might proceed as follows:

> **Member:** Madam Chairman, I move the previous question on Section _____ and all amendments thereto.
>
> **Chair:** The question is on ordering the previous question on Section _____. All those in favor, say "aye." *(Pauses.)* All those opposed, say "no." *(Pauses.)* In the opinion of the chair, the ayes have it and the previous question is ordered on Section _____.
>
> *A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*
>
> **Chair:** The clerk shall report the next section.

If a member sought to end a committee's consideration of an amendment in the nature of a substitute, a committee might proceed as follows:

> **Member:** Madam Chairman, I move the previous question on the amendment in the nature of a substitute and all amendments thereto.
>
> **Chair:** The question is on ordering the previous question. All those in favor, say "aye." *(Pauses.)* All those opposed, say "no." *(Pauses.)* In the opinion of the chair, the ayes have it and the previous question is ordered on the amendment in the nature of a substitute.
>
> *A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*
>
> **Chair:** The previous question having been ordered on the amendment in the nature of a substitute, the vote now occurs on agreeing to the amendment [as amended if amended]. All those in favor, say "aye." *(Pauses.)* All those opposed, say "no." *(Pauses.)* In the opinion of the chair, the ayes have it and the amendment is agreed to.
>
> *A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*

[285] Ibid., § 15, p. 715.

[286] Rule XIX, cl. 1; and *House Practice*, ch. 39, § 11, pp. 712-713.

> **Chair:** The vote now occurs on approving the bill as amended by the amendment in the nature of a substitute. All those in favor, say "aye." *(Pauses.)* All those opposed, say "no." *(Pauses.)* In the opinion of the chair, the ayes have it and the bill as amended is agreed to.
>
> *A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*

Ordering the previous question may constitute an important procedural strategy. Therefore, a majority member making a motion for the previous question is likely to do so only at the behest or with the approval of the chair. A minority member is less likely to wish to move the previous question, but would likely do so only at the behest or with the approval of the ranking minority member.

12.5. To Recess

Rule XI, clause 1(a)(2)(A)(i) provides a privileged, nondebatable motion for a committee to recess from day-to-day or to recess subject to the call of the chair within 24 hours.[287] Chairs also regularly recess committees for relatively short periods of time, for example, to allow members to cast recorded votes in the House. Some committees' rules specifically provide authority for the chair to announce this type of recess so that the motion does not need to be made and the chair's authority to do so may not be challenged. A chair might announce the following:

> **Chair:** I have been informed that the bells will ring momentarily and that there will be a series of votes, a 15-minute vote followed by two 5-minute votes. The committee shall stand in recess until 10 minutes after the expiration of time for the last vote.

12.6. To Table

Recognized in Rule XVI, clause 4, the motion to lay on the table, or simply to table, if agreed to, is the final adverse disposition of a proposition, such as a measure, amendment, or other motion. The motion to table is in order before debate begins on a measure, amendment, or other motion, and it is neither debatable nor amendable. It is not applicable to a matter that is neither debatable nor amendable. Only the motion to adjourn and the question of consideration have precedence over the motion to table.[288]

A motion to table may also be used in some circumstances to attack collaterally another matter. For example, if a committee votes to table an amendment, the motion carries to the table with the amendment the measure to which the amendment was offered. So, while the motion might be perceived to have the benefit of preventing an amendment from being considered, the consequence of its adoption is the collateral adverse disposition of the measure to which it was

[287] Privilege is defined thus: "An attribute of a motion, measure, report, question, or proposition that gives it priority status for consideration. That status may come from provisions of the Constitution, standing rules, precedents, or statutory rules." *Congressional Quarterly's American Congressional Dictionary*, p. 188.

[288] *House Practice*, ch. 29, §§ 1-3 and 6, pp. 629-631 and 633-634.

offered.[289] A vote to table other motions that might be made in the course of a markup would not likely have the same consequence for the measure being marked up.[290]

Because the motion to table is not debatable, it allows opponents of the underlying proposition to avoid a time-consuming debate on the merits. If agreed to, it offers members a means of avoiding a direct vote on a proposition, allowing them to vote to kill a vote on a question rather than debating and voting for or against the question. So, for example, if a minority-party member appeals the ruling of the chair on a matter, a majority-party member will normally immediately move to table the appeal. A committee might proceed as follows in that situation:

> **Chair:** …The point of order is sustained [overruled].
>
> **Member:** Madam Chairman, I respectfully appeal the ruling of the chair.
>
> **Chair:** The gentleman appeals the ruling of the chair.
>
> **A Majority-Party Member:** Madam Chairman, I move to table the appeal.
>
> **Chair:** The gentleman moves to table the appeal. All those in favor of the motion to table, say "aye." *(Pauses.)* All those opposed, say "no." *(Pauses.)* In the opinion of the chair, the ayes have it and the motion to table is agreed to.
>
> *A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*

13. Voting

Questions in committee must be decided by a vote or by unanimous consent. Most questions are decided by voice vote, with no positions by individual members recorded. A question may also be decided by a division vote, in which members raise their hands for and against a proposition and are counted, but the positions of individual members are not recorded. A member wishing to have a recorded vote on a question must demand it and must have the support of other members—a "sufficient second"—for taking a recorded vote. A committee's rules may identify the number, portion, or percentage of members needed to obtain a recorded vote.

Pursuant to Rule XIII, clause 3(b), recorded votes in a markup on amendments and on reporting a measure must appear in a committee's report.

Delegates and the Resident Commissioner have the same rights in committee as other Members, including the right to vote (see House Rule III, clause 3).

13.1. Forms of Voting

At appropriate times, a chair, and only the chair, will put questions to the committee or subcommittee on amendments and motions. Indeed, a chair must put a question that is in order.[291] The chair on his or her own initiative puts questions first to a voice vote:[292]

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[289] If a committee is marking up a measure not yet introduced, the motion to lay an amendment on the table may have a more limited ramification, depending on how the measure is open for amendment.

[290] Ibid., § 7, pp. 634-635; and ch. 2, § 18, p. 280.

[291] Ibid., ch. 58, § 4, p. 941.

[292] Rule I, cl. 6.

> **Chair:** The question is on the amendment [motion]. As many as are in favor, say "aye." (*Pauses.)* As many as are in favor, say "no." (*Pauses.)* In the opinion of the chair, the ayes [noes] have it and the amendment [motion] is agreed to [not agreed to].

After the chair has announced the vote ("The ayes [noes] have it") but before he or she has conclusively announced the result ("The amendment [motion] is agreed to [not agreed to]") and brought down the gavel and moved to the next item of business, a member may demand a division vote or recorded vote.[293] A demand would also come too late if a motion to reconsider had been laid on the table. If a committee wished to take a division or recorded vote despite intervening business, it could by unanimous consent vacate its proceedings and the chair would then put the question a second time.[294]

If a recorded vote has been ordered, a division vote is not taken after the recorded vote. However, if a division vote has been demanded, a member may demand a recorded vote before or after the chair counts for the division vote. If the demand for a recorded vote occurs before the demand for a division vote or before the chair begins counting for a division vote, the chair ascertains the second for the recorded vote and then conducts the recorded vote, the demand for the division vote having been superseded.[295]

For a division vote, a member says, "[Mr./Madam] Chairman, I demand a division." The chair may respond:

> **Chair:** A division is demanded. As many as are in favor [of the question], raise your hands. (*The chair counts)* As many as are opposed, raise your hands. (*The chair counts.)* On this vote, there are [number of] ayes and [number of] noes. The ayes [noes] have it and [the question] is agreed to [not agreed to].

Members' names are not recorded, and only the total number of ayes and noes are announced by the chair. When a chair counts, as on a division vote or to determine a sufficient second for a recorded vote, he or she may not "betray his duty to make an honest count…," and the count may not be challenged. A chair's count may not be interrupted by a parliamentary inquiry, but a member could make a point of order that a quorum is not present.[296] A member of the minority or a member representing a minority viewpoint might demand a division vote when he or she senses the potential for winning, based on members then present. It is then up to the majority to seek a recorded vote, whether or not they might have wanted one.

Again, after the chair has announced the vote, but before he or she has conclusively announced the result and moved to the next item of business, a member may demand a recorded vote. Only one demand for a recorded vote may be made.[297]

A member or a party must decide whether it is advantageous to call for a recorded vote or if something useful politically could be gained from a recorded vote. For example, how committee members voted on recorded votes must appear in a committee report. Is that advantageous or not? If an amendment loses in committee, would it be made in order to be offered on the House floor? Does it matter if the vote is close or not close?

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[293] Rule XX, cl. 1 and cl. 3.

[294] *House Practice*, ch. 58, §§ 12 and 14, pp. 947-948 and 950-951.

[295] Ibid., § 10, pp. 945-946; § 12, pp. 947-948; and § 14, pp. 950-951.

[296] Ibid., §§ 6 and 10, pp. 942-943 and 945-946.

[297] Ibid., §§ 12 and 14, pp. 948 and 951.

For a recorded vote, a member says, "[Mr./Madam] Chairman, I demand a recorded vote." The chair responds:

> **Chair:** A recorded vote is requested. As many as are in favor of taking this vote by recorded vote, raise your hands. (*The chair counts for the second—one-fifth of those present or the second required by committee rules.)* A sufficient number favoring a recorded vote, a recorded vote is ordered. The question is on [the proposition]. The clerk shall call the roll.

A sufficient second is one-fifth of those present, unless committee rules provide a different number. A quorum does not need to be present for the demand or the second. If a chair must ascertain one-fifth or another portion or percentage of those present, the chair counts those supporting the recorded vote and then counts the number of members present. The chair does not ask for or count those opposed to a recorded vote. A member may withdraw a demand for a recorded vote before the chair completes his or her count of the second. If a recorded vote has been ordered and the committee wishes to rescind the order, it may vacate its proceedings by unanimous consent.[298]

On a recorded vote, the clerk calls the roll, first the names of the majority members and then the names of the minority members. The clerk calls the roll twice. The first time, the clerk calls all names on the roll. The second time, the clerk calls the names of members who did not respond the first time.[299] Each member votes orally, saying "aye," "no," or "present," or does not vote. A member might be in the committee room but choose not to vote when his or her name is called. The clerk records each member's vote on a tally sheet. Proxy voting is not allowed.[300] After the clerk has called the roll, a member might inquire, "[Mr./Madam] Chairman, how am I recorded?" The chair will then say to the clerk, "How is the gentleman [gentlelady] recorded?" The clerk responds that the member is recorded "aye," "no," "present," or "not recorded."

A chair votes in committee. A chair normally instructs the clerk at the beginning of a Congress whether he or she wishes to have his or her name called first or last on recorded votes.[301] A chair may wish to go first to signal colleagues. A chair may wish to go last to be able to see the number of votes for and against, and then either to prolong the vote to allow more members to arrive or, if the vote is close, to vote with the majority, even if the majority does not reflect his position. By voting with the majority, the chair qualifies to make a motion then or later to reconsider the vote, as explained below in this section.

When the chair in his or her discretion is prepared to conclude the vote, he or she first asks, assuming some members did not vote, "Are there other members who wish to be recorded?" After members have voted or the chair has ascertained that there are no members seeking to vote, the chair asks, "Does any member wish to change his or her vote?" After members have changed their vote or the chair has ascertained that there are no members seeking to change their vote, the chair continues when prepared to do so and says, "The clerk shall report the vote." The clerk reads aloud the number of aye, no, and present votes. The chair then announces the vote and the result.

> **Chair:** On this vote, the ayes were ...., the noes were ...., and the present were .... [The question] is agreed to [not agreed to].

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[298] Ibid., §§ 12 and 14, pp. 949 and 951; and ch. 59, § 5, pp. 969-970.

[299] Ibid., ch. 58, § 17, p. 953.

[300] Rule XI, cl. 2(f).

[301] *House Practice*, ch. 58, § 17, p. 953.

Once the clerk begins to call the roll, the vote may not be interrupted by a parliamentary inquiry,[302] or a motion to adjourn.[303] If a vote exposes the absence of quorum, further business is precluded until a quorum is established.[304]

13.2. Majority Vote

All questions in committee on recorded votes are decided by a majority. On a tie vote, a question fails.[305]

13.3. Motion to Reconsider

In some instances, the chair, ranking member, or other members of a committee might wish to have the committee vote a second time on a question, for example, after the committee has voted up-or-down on an amendment or motion. This situation might arise when the vote was very close, some members who would have voted on what was the losing side of the question were not present, or for other reasons. This second vote might be sought through a motion to reconsider.

After the result of a vote is announced by the chair, a member who voted on the prevailing side may move to reconsider the vote.[306] For this reason, a chair or ranking minority member might vote last in order to know how the vote will come out, and then vote on the prevailing side and against his or her real position in order to qualify to make the motion. When no other question is pending, a motion to reconsider has precedence over all other motions other than a motion to adjourn.[307]

If the motion to reconsider is agreed to, another vote occurs on the question to be reconsidered. Only one motion to reconsider is normally permitted on a question.

The motion to reconsider is not applicable to some motions used in committee, notably the motions to adjourn and recess and, if rejected, the question of consideration. The motion to reconsider may be made whether a motion has been agreed to or not agreed to in most but not all instances; for example, it is allowed on an affirmative vote on a question of consideration but not on a vote rejecting the motion.

Because the motion to reconsider is a debatable motion, it is subject to a motion to table. If a member of one party moves for reconsideration, a member of the other party could move to table the motion to reconsider, and the vote then occurs on the motion to table. The motion to reconsider is also subject to the question of consideration. If a member who did not vote on the prevailing side attempts to make a motion to reconsider, another member may make a point of order before a vote is ordered on the motion.[308]

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[302] Ibid., ch. 37, § 15, p. 692.

[303] Ibid., ch. 1, § 3, p. 5.

[304] Ibid., ch. 43, § 3, p. 758. *See also Practice and Procedure in Committees, Proceedings, and Conferences*, pp. 12-14.

[305] *House Practice*, ch. 58, § 28, p. 963.

[306] Under Rule XIX, cl. 3, the motion to reconsider is in order on the "same or succeeding day" as a question was decided. "The motion to reconsider is in order in the procedure of standing committees.... Thus, the motion to reconsider may be entered in a committee on the same day as the vote to be reconsidered, or on the next day the committee convenes with a quorum present at which business of that class is in order." *House Practice*, ch. 47, § 6, p. 820.

[307] *House Practice*, ch. 47, § 8, p. 821.

[308] Ibid., §§ 3-4, 8, and 10-11, pp. 817-819, 821, and 822-824. A voice vote may also be reconsidered, and any member (continued...)

If a member makes a motion to reconsider a vote, a committee might proceed as follows:

> **Member:** Madam Chairman, I move to reconsider the vote by which the previous question was ordered.
>
> **Another Member:** Madam Chairman, I move to table the motion to reconsider.
>
> **Chair:** The gentleman has moved to table the motion to reconsider. As many as are in favor of the motion, say "aye." *(Pause.)* As many as are opposed, say "no." *(Pause.)* In the opinion of the chair, the ayes have it and the motion to reconsider is laid on the table.
>
> *A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*

More commonly, a committee chair preempts the need for members making and moving to table the motion to reconsider. At the appropriate time, a chair is likely to say,

> **Chair:** The motion to reconsider is laid on the table.

This is an implied request for unanimous consent. A committee member wishing to make the motion to reconsider, assuming the member qualified by having voted on the prevailing side, would need to immediately object to the chair's implied request. (See also "14.4.2. Motion to Reconsider.")

13.4. Order of Voting on Amendments

As explained earlier, the order of voting on amendments is established in House rule and precedent.[309] (See **Figure 3**, The Basic Amendment Tree.) The order of voting, if the four amendments permitted on the amendment tree are pending, is as follows:

1. the second-degree perfecting amendment to the amendment,
2. the second-degree perfecting amendment to the substitute amendment,
3. the substitute amendment, as amended if amended, and
4. the amendment, as amended if amended.

If an amendment is disposed of, for example, one of the second-degree amendments, then another amendment may be offered. An amendment is voted on based on its position on the tree, not the order in which it was offered. (See also **Appendix K,** Sample Scripts for Voting on Amendments, and **Appendix L,** Sample Script for Parliamentary Inquiry on Voting Order on Amendments, with Votes on Amendments to an Amendment in the Nature of a Substitute Made Base Text.)

13.5. Divisibility of a Question

A question—the pending proposition, such as an amendment—might include "propositions so distinct in substance that, one being taken away, a substantive proposition remains." If this criterion in Rule XVI, clause 5 exists in an amendment, a member may demand a division of the

(...continued)

may make the motion, without regard to how the member might have voted. Ibid., § 4, p. 819.

[309] Rule XVI, cl. 6; and *House Practice*, ch. 2, § 28, p. 43.

question so that each distinct proposition will be voted on separately.[310] The demand is not a motion, subject to a vote, and does not require unanimous consent.

In considering a member's demand for the division of a question, a chair weighs only the divisibility of the question into two (or more) substantive propositions.[311] The question must be structurally divisible (e.g., not a motion to strike and insert) and substantively divisible (e.g., two or more freestanding propositions). After the demand has been made, another member might also make a point of order that the question is not divisible into separate and distinct propositions.[312]

A division may be demanded on an amendment after it has been amended, and a member may demand a division of the question on amendments offered en bloc. The House rule disallows a demand for division of a strike and insert amendment. Likewise, an amendment in the nature of a substitute is not subject to a demand for a division. By precedent, bills and joint resolutions are not divisible on a motion to agree to the measure, but the question of agreeing to certain simple and concurrent resolutions may be divisible.[313]

To be timely, a member must demand a division of a question before the chair puts the question. A demand may be withdrawn without unanimous consent before the question is put on the first proposition. It may be withdrawn only by unanimous consent after the question is put on the first proposition.[314]

In voting on an amendment on which a division has been demanded, the chair first puts the question on the unaffected portion of the amendment, if there is one, and then on the portion on which a separate vote was demanded. The portion on which the separate vote was demanded remains open to amendment. The vote on each portion of the amendments so divided is subject to a motion to reconsider.[315] (See also **Appendix M,** Sample Scripts for Division of a Question: Amendments and En Bloc Amendments.)

To initiate a division of a question, a member and chair might proceed as follows:

> **Member:** Madam Chairman, I demand a division of the question.
>
> **Chair:** The gentleman shall indicate the propositions on which he desires a separate vote.
>
> **Member:** I find three propositions in this amendment, and demand a separate vote on the proposition concerning…, beginning on page…, line…, and continuing through page…, line….
>
> **Chair:** The gentleman demands a division. The text he has identified constitutes a separate and distinct proposition, as does the remaining text of the amendment. The proposition identified by the gentleman shall be divided for a separate vote. The question

[310] *House Rules and Manual* provides examples of amendments that have been found divisible and not divisible. For example, an amendment "containing separate paragraphs appropriating funds for different programs" was divisible, while an adjournment resolution that also authorized the receipt of veto messages from the President during the adjournment was not divisible because "the receipt authority would be nonsensical standing alone." *House Rules and Manual*, § 921, pp. 719-720.

[311] "…in dividing a question into separate propositions, some restructuring of the language used is in order…." *House Practice*, ch. 21, § 2, p. 482. The parliamentarian's notes in *House Rules and Manual* provide examples from rulings on the House floor of divisible and indivisible propositions (§ 921, pp. 719-723).

[312] *House Rules and Manual*, § 921, pp. 719-723; and *House Practice*, ch. 21, §§ 1-3, pp. 482-483. Other points of order might also lie against a portion of a divided amendment.

[313] *House Practice*, ch. 21, §§ 4-9 and 11, pp. 483-487.

[314] Ibid., § 3, pp. 482-483.

[315] Ibid., § 16, pp. 490.

> now is on the portion of the amendment on which the gentleman did *not* demand a separate vote….
>
> *A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*

If a member makes a point of order against the demand for a division of the question, the committee might proceed as follows:

> **Member:** I find three propositions in this amendment, and demand a separate vote on the proposition concerning…, beginning on page…, line…, and continuing through page…, line….
>
> **Another Member:** Madam Chairman, I make a point of order that the question is not divisible. The proposition identified by the gentleman is not a separate, substantive proposition. If we were to reject either part of this amendment, the other part would not stand alone.
>
> **Chair:** The gentleman makes the argument that the propositions in the amendment are not separate and substantive. The gentleman, however, is arguing the merits of the amendment. The chair considers only whether the member making the demand has identified separate and distinct propositions grammatically and substantively. The text he has identified constitutes a separate and distinct proposition, as does the remaining text of the amendment. The point of order is not sustained. The proposition identified by the gentleman shall be divided for a separate vote.
>
> *The chair's ruling could be appealed.*

Portions of an amendment on which the question has been demanded remain open to debate and amendment. A committee might proceed as follows:

> **Chair:** The question now is on the portion of the amendment on which the gentleman did *not* demand a separate vote….The amendment is agreed to. Is there further discussion of the portion of the amendment on which the gentleman demanded a separate vote?
>
> **Member:** Madam Chairman, I make a point of order against this portion of the amendment that its subject matter falls outside the jurisdiction of this committee as provided in Rule X....
>
> **Chair:** The chair is prepared to rule.... Therefore, the gentleman's point of order is not sustained. Is there further discussion?
>
> **Member:** Madam Chairman, I have an amendment.
>
> **Chair:** To the portion of the amendment on which the committee has not yet voted?
>
> **Member:** Yes.
>
> **Chair:** The clerk shall report the amendment.

13.6. Postponing Votes

A House rule allows committees to adopt a committee rule to "postpone further proceedings when a record vote is ordered" and to resume proceedings "at any time after reasonable notice."[316] The rule applies to votes on amendments and on approval of a measure, but not to procedural motions.

[316] Rule XI, cl. 2(h)(4)(A).

A chair might employ such a committee rule to ensure that there will be a sufficient number of majority members to pass or defeat an amendment, for the convenience of members so that recorded votes are clustered, or for another reason. As explained, for a recorded vote, a member says, "[Mr./Madam] Chairman, I demand a recorded vote." If the chair plans to postpone further proceedings, he or she responds in part as already described but also with other words to activate the committee's rule:

> **Chair:** A recorded vote is requested. As many as are in favor of taking this vote by recorded vote, raise your hands. (*The chair counts for the second—one-fifth of a quorum or the second required by committee rules.)* A sufficient number favoring a recorded vote, a recorded vote is ordered. Pursuant to Committee Rule ..., further proceedings on the amendment shall be postponed.

In some committees, the chair might not ask at this point but when proceedings on the question continue whether there is a sufficient second for a recorded vote.

When the chair has decided when to continue proceedings on one or more postponed votes, he or she may make an announcement to members if the committee or subcommittee is meeting, or direct staff to notify members if the committee or subcommittee is in recess. At a time of the chair's choosing after reconvening, the chair will state,

> **Chair:** The committee [subcommittee] postponed further proceedings on the recorded vote on the amendment [measure] offered by the [gentleman/gentlelady from _____], and shall now resume those proceedings. The question occurs on agreeing to the amendment [measure]. The clerk shall call the roll.

The chair might also list a series of votes in the order in which to take each recorded one. The procedures described above for a recorded vote are followed after the chair states the question. (See also **Appendix N,** Sample Scripts for Postponing a Recorded Vote; Calling a Recess.)

14. Reporting a Measure

Reporting a measure completes committee consideration of the measure and approves the committee's actions taken in markup. Reporting has three components. The first is when the panel, with a quorum physically present, votes to report. At this stage, the measure is "ordered reported." The second component is preparation of a committee report. The final component occurs when the measure and the accompanying report are filed in the House. At this stage, the measure is "reported."

At the end of the amendment process in a markup, a chair normally entertains a motion to report favorably to the House the measure considered. By House rule, a majority of a committee must be "actually present" to vote on this motion.[317] If the motion is agreed to, the measure is "ordered reported," and the committee's actions in markup are affirmed. When a committee orders a measure reported, it is incumbent upon the chair, pursuant to House rule, to report it "promptly" to the House and take "steps necessary" to secure its consideration by the House.[318] A measure is "reported" when it and the accompanying committee report are filed in the House.

[317] Rule XI, cl. 2(h)(1). See also *House Practice*, ch. 11, §§ 22-23, pp. 284-286.

[318] Rule XIII, cl. 2(b)(1). If the chair does not act promptly, clause 2(b)(2) provides a mechanism for committee members to ensure a report is filed.

14.1. Options for How a Committee May Report to the House

Although a committee usually votes on a motion to report a measure favorably to the House, committees have three choices for how to report.

14.1.1. Report Favorably

A committee may report favorably, an option indicating that a majority of a committee is recommending the House consider and pass a measure with any changes recommended by the committee. Some members vote to report to keep the legislative process alive for a measure, with the expectation that changes they favor that have not been included or approved might still be made at a later stage in the legislative process, such as during House consideration or in conference.

14.1.2. Report Unfavorably

A committee may report unfavorably or adversely, which might suggest that the majority-party leadership believes that a majority on the floor would support a measure even though a majority of the committee does not. A measure reported adversely is laid on the table in the House unless the reporting committee or an individual Member requests the measure's reference to a calendar. Adverse reports are rare because committees do not normally report measures without support of a majority of a committee's members, and a special rule can be used by the majority leadership to bring a matter in a chosen format before the House, whether or not it was considered or approved by a committee.[319]

14.1.3. Report Without Recommendation

A committee may report without recommendation, which generally indicates that a committee believes legislation should receive floor consideration but a majority could not be found on the committee on what to report. In this case, a committee report could include a statement that the committee was unable to agree on a recommendation or it could include minority views alone. Reports without recommendation are rare.

14.2. Options for Reporting Recommended Changes to the House

Committees regularly adopt amendments in markups. Presumably, in considering how to read a measure for amendment, one consideration in the decision is what the committee desires to report to the House. The forms in which committees report may have procedural consequences related to how the measure might be considered on the floor. For example, a measure reported without amendment might be noncontroversial and possibly eligible for consideration under the suspension of the rules procedure. (See "16.1.2. Suspension of the Rules.") A measure reported as a clean bill, or with an amendment in the nature of a substitute, might necessitate action by the Rules Committee. (See "16.1.3. Special Rules.") Discussion of the ramifications of what to report, therefore, often occurs between committee leadership and party leadership prior to a vote on reporting, and may occur earlier in the committee's deliberations, even well before the scheduling of a markup. This section examines options of what to report and related procedural consequences.

[319] *House Practice*, ch. 11, § 28, p. 292.

As already noted, amendments agreed to in a markup are *recommendations* to the House. Only the House sitting as the House may change legislation. Even amendments adopted in the Committee of the Whole (the full membership of the House meeting in another form) must be agreed to in the House.

14.2.1. Without Amendment

Reporting a bill or resolution without amendments means a committee has made no changes to the text of a bill as introduced. Exercise of this option is normally limited to narrow, noncontroversial measures, such as those naming post offices. (See **Appendix S**, Consideration and Reporting of a Measure by Unanimous Consent.) Measures reported without amendment are often considered on the floor under the suspension of the rules procedure.

If a measure, however, was referred to more than one committee, one or more panels might have been discharged from consideration, perhaps pursuant to a memorandum of understanding or another agreement or pursuant to a time limitation imposed by the Speaker. There might not be recommended amendments from the committees. Or, a committee might report a clean bill or resolution, as explained below. In these instances, the measure, while clean of amendments, might be complex or controversial, and be considered on the floor pursuant to a special rule. (See "16.2. Considerations Pertinent to a Special Rule.")

14.2.2. Cut and Bite Amendments

A committee may report a bill or resolution with one or more amendments. These discrete amendments are often called "cut and bite" amendments because they are proposed to specific provisions of a measure. These amendments could be considered individually on the floor and be subject to further amendment; committee-approved amendments to a section open for amendment on the floor are considered before other amendments. The cut-and-bite amendments could also be adopted en bloc, or they could be incorporated into a "manager's amendment."[320] They could be considered on the floor pursuant to a procedure established in a special rule, or they could be incorporated into the measure to be considered on the floor pursuant to a self-executing provision in a special rule. (See "16.2.4. Amendments Made in Order.")

14.2.3. Clean Bill or Resolution

Reporting a clean bill or resolution indicates that a new measure will be written, the text of which incorporates amendments that were adopted in markup. This new measure is then introduced in the House, assigned a number, and referred to the committee that wrote it, which immediately reports it to the House. If the House will not be in session when the committee reports, the chair can seek unanimous consent to "deem the measure reported" as if the measure was introduced, referred to committee, and reported from the committee as if the House were in session. Unanimous consent has also been used to deem even more procedural steps or stages to have been completed. (See **Appendix R**, Sample Script for Reporting a Clean Bill or Resolution.)

This option is often selected to protect a committee from procedural objections, such as potential problems with jurisdiction over the subject matter of committee amendments. For example, in the committee markup of a bill, a chair may have ignored procedural objections or arguably to have ruled incorrectly on them. If the committee then reported that bill, these procedural defects could affect the measure's consideration on the floor. If, however, the committee reported instead a

[320] See "7.3.2. Managers' Amendment."

clean bill, no point of order would lie based on these procedural defects because the objections were not raised against the clean bill.

Use of a clean bill or resolution may suggest that a committee made extensive changes during markup, but that is not always the case. Depending on the complexity and controversy of the measure reported as a clean bill or resolution, the measure could be considered under suspension of the rules procedures, pursuant to a special rule, or by another procedure. (See "16.1. Routes to the Floor.")

To report a clean bill, a committee might proceed as follows:

> **Chairman**: Hearing no further amendments, the question is on agreeing to the measure [as amended if amended]. All those in favor, say "aye." (*Listens for response.)* All those opposed, say "no." (*Listens for response.)* In the opinion of the chair, the ayes have it and the question is agreed to.
>
> *A member may request a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*
>
> **Chairman**: It is the chair's intention to introduce in the House a new bill reflecting the text of the measure just agreed to [as amended if amended].
>
> *If the chair wants original cosponsors, he could announce that members wishing to be original cosponsors contact a named individual on the majority committee staff by a specific time on the same legislative day the new measure is introduced.*
>
> **Chairman**: Without objection, upon referral of the bill to the committee, the bill is deemed reported to the House.
>
> **Chairman**: Without objection, pursuant to Rule XXII, clause 1, and Committee Rule *(number),* the chair is authorized to offer such motions as may be necessary in the House to go to conference with the Senate on the bill just deemed reported by this committee or on a similar Senate bill. Without objection, the staff is authorized to make any technical and conforming changes.

14.2.4. With an Amendment in the Nature of a Substitute

Reporting a measure with an amendment in the nature of a substitute is a recommendation of a new text—a full-text substitute for the text of the measure considered. Unlike a clean bill, the number of the measure remains the same. The committee report usually indicates that the measure was "reported with an amendment."

A measure reported with an amendment in the nature of a substitute might be expected to be considered on the House floor pursuant to a special rule. (See "16.2. Considerations Pertinent to a Special Rule.") Scripts for reporting amendments in the nature of a substitute appear later in this section. (See also **Appendix P**, Sample Script for Reporting a Measure with or with Amendments, or with an Amendment in the Nature of a Substitute Considered as Base Text, and **Appendix Q**, Sample Script for Reporting a Measure with an Amendment in the Nature of a Substitute, Not Base Text.)

14.3. Subcommittee Reporting

When a subcommittee markup is completed, the subcommittee submits its recommendations only to its parent committee. By motion, it votes to report (or forward, send, transmit, or similar verb) the measure or draft to its parent committee. A subcommittee might use any of the options for

recommended changes just discussed. Unless authorized by House rule or resolution, a subcommittee cannot report to the House. (See **Appendix O**, Sample Script for Subcommittee Reporting.)

As said earlier, practices concerning the mechanism by which subcommittees report differ among committees. Some committees require their subcommittees to provide legislative language and a document explaining subcommittee action, including recorded votes. Other committees require only a letter or email notification to the full committee chair that the subcommittee has finished its work. Some post-subcommittee actions might be dictated by the exigencies of the issue or a chair's plans for full committee markup. For example, a member, such as the subcommittee chair, might be asked to introduce the subcommittee's reported measure as a new bill or resolution. (See "6.4. Should Subcommittee Markup Precede Committee Markup?" and **Appendix O**, Sample Script for Subcommittee Reporting.)

Once received by the full committee, the committee chair determines what, if any, further action will occur on the measure or draft. (See "7.2. Subcommittee Version—Committee Print.")

14.4. Actions by a Committee in the Course of Reporting

When a markup is completed and a measure is ready to be reported from committee, certain procedures must be followed to officially confirm the actions of the committee and send the measure and accompanying committee report to the full House. The measure must be approved and reported; committee members must be accorded an opportunity to file views in the committee report; staff need to be authorized to make technical corrections to the measure; and the chair should be empowered to potentially seek a conference with the Senate should that step of the legislative process be reached and be desired.[321] The chair might announce whether he or she will seek to have the measure considered pursuant to the suspension of the rules procedure or by special rule, and the chair must report the measure promptly to the House.

14.4.1. Motions to Approve and Report

Depending on the markup vehicle, a committee might by motion first approve a draft as amended, if amended, or an amendment in the nature of a substitute (not made base text) as amended, if amended, and then by motion approve a measure as amended. If the committee marks up a bill as introduced or a bill with an amendment in the nature of a substitute or other amendments, such as a managers' amendment[322] or subcommittee-approved amendments, having been made base text, then the committee's first vote is to approve by motion the measure as amended. A committee might proceed as follows:

> **Chair**: Hearing no further amendments, the question is on agreeing to the bill, [as amended if amended]. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." (*Listens for response.)* In the opinion of the chair, the ayes have it and the bill [as amended if amended] is agreed to. Without objection, the motion to reconsider is laid on the table.
>
> *A member may request a division vote or recorded vote or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a*

[321] Rule XI, cl. 2(a)(3) allows committees to adopt a rule providing this authorization to a chair. If a committee has not adopted such a rule, the committee typically authorizes the chair in the course of its reporting a measure.

[322] See "7.3.2. Managers' Amendment."

recorded vote before the chair begins counting. A committee member may also demand a vote on the motion to reconsider if he or she voted on the prevailing side.

Once a measure has been approved, a committee votes on a motion to report the measure, normally, as explained above, to report the measure favorably. Some committee chairs recognize a senior majority member to make the motion to report; others recognize the ranking minority member, especially in the case of bipartisan support for a bill. In most committees, a recorded vote is requested on a motion to report. A recorded vote generally may indicate the breadth of support for the measure as it has been marked up, and may show whether support or opposition is partisan, regional, or individual. Some members might also vote in favor in order to keep the legislative process moving forward, despite their concerns with the measure being voted on. A quorum physically present is required to report, and a recorded vote demonstrates the presence of that quorum.[323] A motion to report might proceed as follows:

Chair: I move that the bill as amended be reported favorably to the House. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it and the motion is agreed to. Without objection, the motion to reconsider is laid on the table.

A member may request a division vote or recorded vote or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side, although the majority often offers the motion to reconsider and then a motion to table to formally conclude a committee's consideration of a measure.

By practice, or in response to the political or procedural context of the markup, a committee chair or another committee member will weigh where to seek a recorded vote—on approval of an amendment in the nature of a substitute, on approval of the measure as amended, or on reporting the measure.

14.4.2. Motion to Reconsider

The chair normally lays on the table the motion to reconsider the concluding votes in a markup. The chair might say, "The motion to reconsider is laid on the table," or "Without objection, the motion to reconsider is laid on the table." (See "13.3. Motion to Reconsider.")

If a markup was contentious or opposition is significant, a committee chair might entertain a motion to reconsider the vote to report from a majority-party member and then recognize another majority-party member to offer a motion to table the motion to reconsider. Agreeing to the tabling motion precludes future reconsideration of the committee's action. A committee might proceed as follows:

Majority-Party Member: I move to reconsider the motion to report the measure.

Another Majority-Party Member: I move to lay the motion to reconsider on the table.

Chair: The motion to reconsider is laid on the table. *(Implying unanimous consent.)*

If there was objection, the chair would put the question on the motion to table. A member may then call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member

[323] Rule XI, cl. 2(h)(1).

> *demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.*

More commonly, a committee chair preempts the need for members making and moving to table the motion to reconsider. At the appropriate time, a chair is likely to say,

> **Chair:** The motion to reconsider is laid on the table.

14.4.3. Minority and Other Views

Members of a committee—individual members or groups of committee members—are entitled under House rules to file supplemental, minority, additional, and dissenting views in a committee report. Committee rules may allow a longer filing period than House rules, or may implement House rules so as to strictly construe what is allowed. A request to file such views is usually made following the vote on a motion to report.

In general, the ranking minority member makes this request. However, any member, majority or minority, is entitled to author such statements. In some committees or on some occasions, a chair might automatically announce that time is available for the submission of views, saying, "All members shall have (*number in committee rules)* days to submit supplemental, minority, additional, and dissenting views for inclusion in the committee's report on the legislation."

Supplemental or additional views are generally filed by members who support a measure but wish to express or clarify a concern with a single provision or another issue or to make additional arguments for the measure or a provision of it. Minority views are not limited to minority party members, but rather may be filed by individual members or groups of members who are opposed to the all or part of the legislation. Dissenting views are also filed by members who are opposed to a measure. A member might join a group of members in filing views, such as supplemental or minority, and also file his or her individual views. If timely submitted, views must be included in the report and their existence disclosed on the report's cover.[324]

To request time to file supplemental, minority, additional, or dissenting views, a ranking minority member or another committee member might state,

> **Ranking Minority Member (or Another Member)**: Pursuant to House Rule XI, clause 2(l) and Committee Rule *(number),* I ask that committee members have (*number of days provided in committee rules)* to file with the clerk of the committee supplemental, additional, minority, and dissenting views.

It is also common for the chair to automatically allow time for the filing of views. A chair might preempt the need for a request to be made by saying,

> **Chair:** All members shall have two days in which to file supplemental, additional, minority, and dissenting views.

14.4.4. Technical and Conforming Changes

Many committees allow staff to make "technical and conforming" changes to a measure reported. This authority allows the staff to essentially clean up amendments before a measure is reported to the House. Those changes are generally assumed to be limited to keying, grammar, numbering, spelling, and similar matters, and are not to be substantive in nature. Some panels grant this

[324] Rule XI, cl. 2(l); Rule XIII, cl. 2(c); and Rule XIII, cl. 3(a)(1). See also *House Practice*, ch. 11, § 32, pp. 298-299.

authority by unanimous consent; others grant it by motion. Authorization may be included in the motion to report. A chair might state,

> **Chair**: Without objection, the staff is authorized to make any technical and conforming changes.

14.4.5. Authorization to Seek Conference with Senate

Many chairs recognize a senior majority member to make a motion, pursuant to Rule XXII, clause 1, to authorize the chair to offer such motions in the House as may be necessary to go to conference with the Senate if the measure being reported ultimately passes the House, a related measure passes the Senate, and a conference is desired. Authorization might occur as follows:

> **Majority-Party Member**: Pursuant to Rule XXII, clause 1 and Committee Rule *(number),* I move that the committee authorize the chair to offer such motions as may be necessary in the House to go to conference with the Senate on the bill just ordered reported by this committee or on a similar Senate bill.
>
> *Rule XI, cl. 2(a)(3) authorizes committees to adopt a rule giving a chair authority to make this motion in the House.*

14.4.6. Script to Approve and Report a Measure with an Amendment in the Nature of a Substitute, Not Base Text

A committee may have considered an amendment in the nature of a substitute to an introduced measure. To report the measure with the amendment, a committee might proceed as follows:

> **Chair**: Hearing no further amendments, the question is on agreeing to the amendment in the nature of a substitute [as amended if amended]. All those in favor, say "aye." (*Listens for response.)* All those opposed, say "no." (*Listens for response.)* In the opinion of the chair, the ayes have it and the amendment in the nature of a substitute [as amended if amended] is agreed to.
>
> *A member may request a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side.*
>
> **Chair**: The question now occurs on adopting of the bill as amended. All those in favor, say "aye." (*Listens for response.)* All those opposed, say "no."(*Listens for response.)* In the opinion of the chair, the ayes have it and the bill as amended is agreed to. Without objection, the motion to reconsider is laid on the table.
>
> *A division vote or recorded, or a division vote and then a recorded vote, may occur. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side.*
>
> **Chair**: I move that the bill as amended be reported favorably to the House. All those in favor, say "aye." (*Listens for response.)* All those opposed, say "no." (*Listens for response.)* In the opinion of the chair, the ayes have it and the motion is agreed to.
>
> *A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side, although the*

majority often offers the motion to reconsider and then a motion to table to formally conclude a committee's consideration of a measure.

Chair: The motion to reconsider is laid on the table.

or

Majority-Party Member: I move to reconsider the motion to report the measure.

Another Majority-Party Member: I move to lay the motion to reconsider on the table.

Chair: The motion to reconsider is laid on the table. *(Implying unanimous consent.)*

If there was objection, the chair would put the question on the motion to table. A member may then call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Ranking Minority Member (or Another Member): Pursuant to House Rule XI, clause 2(l) and Committee Rule *(number)*, I ask that committee members have an additional *(number provided in committee rules)* days to file with the clerk of the committee supplemental, additional, minority, and dissenting views.

Chair: Without objection.

Another Member: A parliamentary inquiry, Mr. Chairman. Would the chair please clarify what is the deadline for the submission of views? Does today count as the first day?

Chair: Under the rules of this committee, today counts as the first day, tomorrow as the second day, and so on.

Member: I thank the chair.

Majority-Party Member: Pursuant to Rule XXII, clause 1 and Committee Rule *(number)*, I move that the committee authorize the chair to offer such motions as may be necessary in the House to go to conference with the Senate on the bill just ordered reported by this committee or on a similar Senate bill.

Rules XI, clause 2(a)(3) authorizes committees to adopt a rule allowing their chair to make this motion in the House.

Chair: Without objection. The staff is authorized to make technical and conforming changes to the measure reported. *(Implying unanimous consent.)* There being no further business, the committee stands adjourned.

(See also **Appendix Q**. Sample Script for Reporting a Measure with an Amendment in the Nature of a Substitute, Not Base Text.)

14.4.7. Script to Approve and Report a Measure with an Amendment in the Nature of a Substitute, Made Base Text

The committee might by unanimous consent have considered the amendment in the nature of a substitute as base text. If the committee has already agreed by unanimous consent to that, it has already replaced the text of the measure or draft, and proceeds to a vote to approve the measure as amended. In that instance, a committee might proceed to approve and report a measure as follows:

Chair: Hearing no further amendments, the question is on agreeing to the bill as amended. All those in favor, say "aye." *(Listens for response.)* All those opposed, say

"no." (*Listens for response.)* In the opinion of the chair, the ayes have it and the bill as amended is agreed to. Without objection, the motion to reconsider is laid on the table.

A member may request a division vote or recorded vote or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side.

Chair: I move that the bill as amended be reported favorably to the House. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it and the motion is agreed to.

A member may request a division vote or recorded vote or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side, although the majority often offers the motion to reconsider and then a motion to table to formally conclude a committee's consideration of a measure.

Chair: The motion to reconsider is laid on the table.

or

Majority-Party Member: I move to reconsider the motion to report the measure.

Another Majority-Party Member: I move to lay the motion to reconsider on the table.

Chair: The motion to reconsider is laid on the table. *(Implying unanimous consent.)*

If there was objection, the chair would put the question on the motion to table. A member may then call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Ranking Minority Member (or Another Member): Pursuant to House Rule XI, clause 2(l) and Committee Rule (*number)*, I ask that committee members have (*number of days provided in committee rules)* to file with the clerk of the committee supplemental, additional, minority, and dissenting views.

Chair: Members shall have *(number of days)* to submit views.

Another Member: A parliamentary inquiry, Mr. Chairman. Would the chair please clarify what is the deadline for the submission of views? Does today count as the first day?

Chair: Under this committee's rules, today counts as the first day, tomorrow as the second day, and so on.

Member: I thank the chair.

Majority-Party Member: Pursuant to Rule XXII, clause 1 and Committee Rule *(number)*, I move that the committee authorize the chair to offer such motions as may be necessary in the House to go to conference with the Senate on the bill just ordered reported by this committee or on a similar Senate bill.

Rules XI, clause 2(a)(3) authorizes committees to adopt a rule allowing their chair to make this motion in the House.

> **Chair**: Without objection. The staff is authorized to make any technical and conforming changes. *(Implying unanimous consent.)* There being no further business, the committee stands adjourned.

(See also **Appendix P**. Sample Script for Reporting a Measure with or without Amendments, or with an Amendment in the Nature of a Substitute Considered as Base Text.)

14.5. Sponsorship and Cosponsorship of Reported Measures

All measures introduced in the House must be sponsored by a Member of the House and bear a Member's original signature. Measures may be cosponsored by as many Members as wish to sign on as cosponsor. Members may be added as cosponsors up until the time the measure is reported from committee or the measure is discharged from committee. To be removed as a cosponsor, prior to the measure being reported, a Member would seek unanimous consent on the floor to have his or her name removed.

When a measure is reported from committee, it is possible that the original sponsor's name is no longer listed as the author of the measure. What a committee reports might allow someone other than the original sponsor to be listed as the author. That is, as versions of the measure move through the legislative process, the vehicle for committee consideration may change, such as through primary committee consideration or possibly consideration by additional committees. For example, if a committee opts for a clean bill, the committee or subcommittee chair will normally be designated as sponsor of the legislation.[325] Original cosponsors are often added at the time of introduction of a clean bill.

The cover page of a committee report identifies the committee chair as submitting the report to accompany the measure reported.

15. Committee Reports

House rules require that a written report accompany a measure reported from a committee.[326] Committee staff regularly begin preparation of a committee report before a markup is completed or before it even begins. A report is written in lay language rather than legal terminology, and it explains and advocates for the legislation reported and the committee's recommended amendments. A report

- explains the purpose of the legislation reported,
- shows proposed changes in existing law that would result from the legislation as reported (the "Ramseyer rule" in the House),
- identifies amendments offered during markup and recorded votes on them, and
- includes a cost estimate, executive branch comments, and other items, such as a summary of hearings, which is not required by rule to be included. (See **Table 2**.)

A report discusses the legislative intent of the committee, acting in the House's behalf, perhaps even issuing directives to executive branch departments and agencies in their implementation of the legislation should it become law. Individuals or groups of committee members may publish their views on the reported legislation in a section of the report; the existence of this section must

[325] Floor managers traditionally mention the name of the sponsor of the original legislation during floor consideration and often provide the author a specified amount of time to control during debate on the legislation.

[326] Rule XIII, cl. 2. See also *House Practice*, ch. 11, §§ 28-29, pp. 291-295.

be identified on the report's cover page. It is the responsibility of a committee chair to "promptly" report a measure to the House.[327]

Reports are numbered sequentially for the Congress in which they are filed with the House, for example, H.Rept. 115-1, H.Rept. 115-2, and so on. One report may be from one committee, the next report from another committee, and so on. (See "15.4. Report with Parts—Measures Referred to More Than One Committee.") Not all numbered committee reports deal with reported legislation.

15.1. Preparing and Filing a Committee Report

Once a markup is concluded, committee staff provide the text of any amendments adopted to the appropriate legislative counsel. As mentioned earlier, the Office of Legislative Counsel generally assigns attorneys to work with specific committees and on specific issues, and an appropriate attorney from this office usually attends a markup. The Office of the Legislative Counsel creates the cover page for a committee report; committee staff provide cover information regarding the inclusion of members' supplemental, minority, additional, and dissenting views. Legislative Counsel Office attorneys prepare the Ramseyer section of the report, a section required by House rules that explicitly shows how the measure, as reported, affects existing law.[328]

Legislative Counsel Office attorneys also incorporate amendments agreed to in markup into a new version of the *measure* ("as reported"). New text reported by the first committee appears in an italicized typeface; the changes recommended by additional committees appear in other typefaces once those committees report. This version of the legislation is filed with the committee report.

Copies of amendments, or the version of the measure reported if it is available, are also provided to the Congressional Budget Office (CBO), which is responsible for preparing a cost estimate of the measure, which must be included in the committee's report.[329] CBO also scores legislation against a budget plan, normally a budget resolution.[330]

When the report is completed, it is delivered to the Clerk of the House for printing and for reference by the Speaker to the appropriate calendar, pursuant to Rule XIII, clause 2(a)(1). Reports must be filed within seven calendar days (excluding days the House is not in session), pursuant to Rule XIII, clause 2(b)(2). (See also "15.2. Late Filing of a Committee Report.")

15.1.1. Privileged and Nonprivileged Reports

Reports for measures that do not have privilege for floor consideration—nonprivileged reports—are delivered to the Clerk of the House for printing and reference to the appropriate House calendar. Several committees, however, are entitled under House rules and precedents to file committee reports on specific matters on the House floor under their privileged status. These committees are Rules, Budget, Appropriations, House Administration, and Ethics. In addition, several types of reports are privileged based on their subject matter. These include reports on

[327] Rule XIII, cl. 2((b)(1).

[328] Rule XIII, cl. 3(e). See also *House Practice*, ch. 11, § 30, pp. 295-297. Named for Iowa Rep. Christian W. Ramseyer (U.S. House, 1915-1933).

[329] Rule XIII, cl. (3)(c). By law, CBO uses estimates provided by the Joint Committee on Taxation for revenue legislation.

[330] See CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated by James V. Saturno, for an explanation of CBO cost estimates and scorekeeping.

presidential vetoes, impeachment, and certain resolutions of disapproval.[331] (See "16.1.1. Legislation That Is Considered in the House.")

Privileged reports are filed by the committee chair or designee "by direction of the committee…."

> **Chair:** Mr. Speaker, by direction of the Committee on ____, I present a privileged report for filing under the Rule.

The reading clerk reports the title of the measure and the chair orders the report and the measure printed and referred to the appropriate calendar.

15.2. Late Filing of a Committee Report

As noted previously, committee reports are to be filed within seven calendar days (exclusive of days the House is not in session). However, committees are sometimes unable to submit a committee report while the House is in session, especially if the House adjourns early in the day. In such an instance, the committee chair or designee may request unanimous consent on the floor that the committee have until a specified time, often midnight of that day, to file the committee's report. On some occasions, the request might extend beyond midnight. The request to file a late report cannot be done by motion.[332] A request to file late might be made as follows:

> **Chair.** Mr. Speaker, I ask unanimous consent that the Committee on _____ have until midnight tonight to file a report on the bill, H.R. [number].

When a committee report includes additional, supplemental, minority, or dissenting views, those views must be filed within two days, unless a committee's rules or a decision of the committee allow more than two days. However, if such views are not filed within the deadline, the committee may file its report with the clerk of the House not later than one hour after the deadline, regardless of whether the House is in session.

15.3. Required Contents of a House Committee Report

House rules and statutes detail substantive requirements of items to be included in House committee reports accompanying reported bills. Not all requirements apply to all committees or in all circumstances. There is also no prescribed order for inclusion of these items in a report, although custom has dictated certain common approaches, such as placing at the end of a report the Ramseyer analysis showing changes in existing law and, at the very end, any supplemental, minority, additional, or dissenting views. With the exception of a possible supplemental report addressing technical errors in a committee's report, a report must appear in one volume.[333] **Table 2** summarizes House requirements for committee reports, the rule or statutory source of each requirement, and exceptions to the general application of each requirement. The table does not

[331] A more complete list is available in *House Practice*, ch. 11, §34, pp. 300-301. Privilege is defined thus: "An attribute of a motion, measure, report, question, or proposition that gives it priority status for consideration. That status may come from provisions of the Constitution, standing rules, precedents, or statutory rules." *Congressional Quarterly's American Congressional Dictionary*, p. 188.

[332] If a committee wishes to file a report during a pro forma session, it might need to obtain unanimous consent to do so. The committee should consult the parliamentarian prior to the House's adjournment preceding a pro forma session.

[333] Rule XIII, cl. 3(a)(1). Reports on one measure by more than one committee are discussed at "15.4. Report with Parts—Measures Referred to More Than One Committee."

include some additional content rules, such as those directed by separate order, applicable to individual or all committees.[334]

Table 2. Required Contents of House Committee Reports

House Rule	Requirement	Applies To
Rule XIII, clause 3(b)	Statement of committee action on all roll-call votes	Roll-call vote to report bill or resolution of public character and on any amendment offered in committee; does not apply to votes in executive session of the Ethics Committee
Rule XIII, clause 3(c)(1)	Statement of committee oversight findings and recommendations[a]	Measure approved; all committees except the Committee on Appropriations
Rule XIII, clause 3(c)(2), and Section 308(a)(1) of the Congressional Budget Act of 1974	Statement on new budget authority and related items	Bill or resolution (except continuing appropriations) providing new budget authority, new spending authority, new credit authority, or an increase or decrease in revenues or tax expenditures
Rule XIII, clause 3(c)(3), and Section 402 of the Congressional Budget Act of 1974	Statement of CBO cost estimate and comparison, if submitted in a timely fashion	Bill or resolution of a public character
Rule XIII, clause 3(c)(4)	Statement of general performance goals and objectives; include outcome-related goals and objectives	Measure approved
Rule XIII, clause 3(a)(1)(A)[b]	Supplemental, minority, additional, and dissenting views, if submitted in writing and signed, and filed within 2 calendar days or a longer time if allowed in committee rules	Measure or matter approved; all committees except the Committee on Rules
Rule XIII, clause 3(a)(1)(B)	Recital on cover of report to show inclusion of certain material	Reports that include CBO cost estimate and comparison, oversight findings, and supplemental, minority, additional, and dissenting views
Rule XIII, clause 3(c)(5)	Statement on duplicative federal programs	Bill or joint resolution authorizing or reauthorizing a federal program
Rule XIII, clause 3(e)[c]	Changes in existing law ("Ramseyer rule")	Bill or joint resolution that repeals or amends existing law
Rule XIII, clause 3(d)(1)	Statement of committee cost estimate	Bill or resolution of a public character; Committees on Appropriations, House Administration, Rules, and Ethics are exempt; requirement does not apply if CBO cost estimate is in report
Rule XIII, clause 3(f)(1)	Statement of the effect of a provision directly or indirectly on existing law, and a list of unauthorized appropriations	General appropriations bills reported by the Committee on Appropriations
Rule XIII, clause 3(f)(2)	List of rescissions and transfers	Bill or joint resolution reported by

[334] See selected provisions of Sec. 4 of H.Res. 5 (115th Cong.) for items required to be included in committee reports in the 115th Congress. Reps. Kevin McCarthy and Pete Sessions, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), pp. H8-H10 and H13-H14.

House Rule	Requirement	Applies To
		Committee on Appropriations
Rule XIII, clause 3(h)	Tax complexity analysis	Bill or joint resolution reported by Committee on Ways and Means that amends the Internal Revenue Code of 1986
Rule XIII, clause 8	Estimate of budgetary effects from changes in macroeconomic variables	For major legislation
Rule XXI, clause 9	List of congressional earmarks, limited tax benefits, limited tariff benefits, and name of requesting Member	Bill, joint resolution, amendment, and conference report
Federal Advisory Committee Act (5 U.S.C. App.), Section 5(b)	Determination with respect to new advisory committee	Legislation establishing or authorizing establishment of an advisory committee
Congressional Accountability Act, P.L. 104-1; Section 102(b)(3)[d]	Applicability to legislative branch or statement of why not applicable	Bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations
Unfunded Mandates Reform Act, P.L. 104-4; Section 423 of Congressional Budget Act of 1974[e]	Statement of federal mandates	Bill or resolution of a public character

Source: Compiled by CRS from *Rules of the House of Representatives, One Hundred Fifteenth Congress,* and U.S. Code.

a. Required pursuant to Rule X, cl. 2(b)(1).

b. Also Rule XI, cl. 2(l).

c. For an elaboration on House practices and precedents related to the Ramseyer rule, *see House Practice*, ch. 11, § 30, pp. 295-297.

d. *House Rules and Manual,* § 842, p. 649.

e. *House Rules and Manual,* § 843, pp. 649-650.

15.4. Report with Parts—Measures Referred to More Than One Committee

Each committee reporting a measure that had been referred to more than one committee is responsible for filing its own committee report. Although filed on a single piece of legislation, each panel is responsible for complying independently with all requirements for a committee report. However, for a measure that has been reported from more than one committee, each committee's Ramseyer section only needs to address the changes that panel recommends and not those recommended by the other committees having received a referral.

As noted, House rules require that committee reports generally be in one volume. Accordingly, a number is assigned to a committee report when the committee with the primary reference reports, and is in addition numbered Part 1 or Part I. When a committee with an additional or sequential referral reports, its report is assigned the same report number, but is designated Part 2 or Part II. Committees reporting after the committee of primary referral must file their parts of the committee report by the conclusion of any deadline applicable to their referral.

Of course, if the primary committee does not report legislation that was referred additionally, and the measure is neither discharged nor discharged pursuant to an imposed time limit, the panels that received an additional referral cannot generally report their version of the measure nor file

their part of a committee report. The committees with the primary and additional referral might also agree not to act.

15.5. Supplemental Report

Rule XIII, clause 3(a)(2) authorizes a committee to file a supplemental report for the correction of a "technical error" in a report it has filed. If a supplemental report corrects only errors in reporting a recorded vote, the report is not subject to the availability requirements of House Rule XIII, clause 4 or clause 6. A supplemental report correcting other than a technical error is subject to layover requirements.[335]

If a measure is accompanied by a report containing erroneous information on recorded votes in committee, the measure would be subject to a point of order against its consideration on the floor. If the error was made by the Government Publishing Office, however, the point of order would not lie.

Parliamentarian's notes in the *House Rules and Manual* indicate that a question of privileges of the House could arise from an allegation that a committee report contained descriptions of recorded votes that deliberately mischaracterized amendments and that a chair could be directed to file a supplemental report to change the descriptions.[336] Parliamentarian's notes further indicate that a supplemental report may also be filed to remedy a technical failure of a committee to comply with the Ramseyer rule.[337]

Supplemental reports may not be filed except by unanimous consent to (1) correct a failure to comply with all reporting requirements, (2) change a statement of legislative intent, (3) include committee members' views not submitted in a timely manner for inclusion in the report, or (4) outline substantive interpretations of a previously reported bill. Unanimous consent is not required to file a supplemental report to correct technical errors described above, but it is required to file a report to correct any of these four matters.[338]

15.6. Star Print

A star print is the reprint of a bill, resolution, amendment, or committee report that corrects printing errors, either technical or substantive, which appeared in the original printing.[339]

15.7. Consequences of Rules Violations in Markups and Committee Reports

As noted previously, the rules of the House are the rules of its committees, although an individual committee's rules often adapt and supplement House rules to reflect the specific needs of that committee. An assumption exists that committees follow House and committee rules when

[335] *House Practice*, ch. 11, § 28, pp. 292-293.

[336] *House Rules and Manual*, § 839, pp. 645-646. Questions of privileges of the House are defined thus: "…questions affecting the rights of the House and the safety, dignity, and integrity of its proceedings." *Congressional Quarterly's American Congressional Dictionary*, p. 196.

[337] *House Rules and Manual*, § 846, p. 651; and *House Practice*, ch. 11, § 30, p. 297.

[338] *House Practice*, ch. 11, § 28, pp. 292-293.

[339] The term comes from the small black star that appears on the front page of the document. The star is inserted by the Government Publishing Office to indicate that the document is a corrected version that supersedes the previous version. See *House Practice*, ch. 11, § 31, p. 298.

conducting a markup, including the rule requiring that a majority of the committee must be physically present to report a measure and that the motion to report must be approved by a majority vote, a quorum being present. The rules of the House and its committee are, however, not self-enforcing: it is incumbent on committee members to make a point of order against any action that may be a violation of a House or committee rule. The chair has a duty to rule on each point of order, basing his or her ruling on rules and precedents.[340]

Nonetheless, a point of order cannot normally be made in the House against committee procedures that violated House or committee rules prior to the time a measure was ordered reported.[341]

15.7.1. Committee Reports and Reporting

Points of order can be raised on the House floor if a committee reports a measure without a quorum present. A point of order can be made against a committee report if it does not include every item required by House rules to be included in a report from that committee, although a point of order cannot be raised against a committee report if the point of order relates to the appropriateness of the executive communication.[342] (See **Table 2**.) If the point of order is sustained, the measure is automatically recommitted to the committee, although, as noted earlier, a supplemental report can be filed to correct errors in the initial report. A point of order may not be made on the motion in committee to approve the report itself.

A point of order can be raised if the committee report does not lay over for the appropriate amount of time, normally three days.[343]

15.7.2. Remedy

A point of order cannot be raised on the House floor if the measure is considered by unanimous consent, under suspension of the rules procedures, or pursuant to a special rule from the Rules Committee that waives the House rule or rules that the committee may have violated. Further, if a special rule has been agreed to, or consideration of a measure has begun, a point of order related to a deficiency in the committee's reporting action comes too late to be considered by the House.[344]

16. Options for House Floor Consideration

Many considerations go into the majority leadership's decision of whether, when, and how to schedule reported legislation, or even unreported legislation, for floor action. Support for legislation within the committee(s) of jurisdiction and support within the majority caucus are two considerations. Competition for floor time, the time required on the floor, deadlines such as the

[340] The chair does not rule on points of order that challenge the sufficiency or legal effect of committee reports.

[341] *House Rules and Manual*, § 792, p. 560; and *House Practice*, ch. 11, § 15, p. 276.

[342] Failure to comply with the Ramseyer rule (Rule XIII, cl. 3(e)) presents a unique circumstance. The point of order needs to be raised when the Speaker declares the House resolved into the Committee of the Whole, and it is incumbent upon the proponent of the point of order to cite the specific statutes that would be amended by the pending legislation. A special rule providing for a measure's consideration does not preclude a point of order being raised against a Ramseyer problem, unless the special rule specifically waives points of order. A supplemental report can be filed to correct a defect related to the Ramseyer rule. *House Practice*, ch. 11, § 30, p. 297.

[343] *House Practice*, ch. 11, § 36, p. 303.

[344] Ibid.

expiration of existing authority, and the importance of the legislation to the majority party are other considerations. The Administration's support or opposition, and the importance of the legislation to the Administration's legislative program, are two additional considerations. The Administration's wishes might be weighed differently if the House and the presidency are under the same or different party control or if the House majority and a President of the same party disagree on an important policy matter.

In scheduling and conducting a markup, a committee presumably looks ahead to the scheduling and consideration by the House of a measure it expects to report and to the considerations and options that the leadership has. With its expertise and deep knowledge of legislative issues within its jurisdiction, and of the politics of those issues, a committee chair and the committee's majority staff can advise leadership and respond to their questions. Therefore, a committee chair and staff will likely consult the majority-party leadership on the issues, vehicles, and timing of markups, including leadership expectations of committees for measures that were referred to more than one committee. A chair and staff will also consult leadership on the scope and content of what might be reported from committee, the form in which the committee might report, majority-party and minority-party support for what might be reported, and what procedure might be appropriate for floor consideration.

16.1. Routes to the Floor

The three most common routes to the House floor for legislation are consideration of privileged legislation in the House under the hour rule, consideration of legislation in the House under the suspension of the rules procedure, and consideration of legislation in the House or the Committee of the Whole pursuant to a special rule.[345] Another route used by the House is unanimous consent.[346]

16.1.1. Legislation That Is Considered in the House

Certain legislation, such as special rules resolutions reported from the Rules Committee, is considered in the House under the hour rule. Such legislation is privileged to interrupt the House's daily order of business.[347] A Member calls up the legislation, is recognized for one hour, yields one-half of the hour to the other party for purposes of debate only, and at the end of the hour moves the previous question. If the previous question is ordered, a vote occurs on adoption of the measure.[348]

The chair of the committee of jurisdiction or sponsor of the legislation still works with the majority leadership on scheduling. Majority and minority floor managers, perhaps in consultation

[345] Where Congress has included, as an exercise of its rulemaking authority, provisions in statute governing floor consideration of a specific measure or specific kind of measure, those provisions will likely be used for that legislation. (See "4. Procedural Restrictions in Law on Certain Markups.")

[346] A number of reports on both committee and House procedures may be found on the CRS website at http://www.crs.gov. Most of these reports appear at the Congressional Operations tab, http://www.crs.gov/iap/congressional-process-administration-and-elections.

[347] Privilege is defined thus: "An attribute of a motion, measure, report, question, or proposition that gives it priority status for consideration. That status may come from provisions of the Constitution, standing rules, precedents, or statutory rules." *Congressional Quarterly's American Congressional Dictionary*, p. 188. For a discussion of privileged business, see *House Practice*, ch. 36, §§ 4-6, pp. 675-677.

[348] For a discussion of the hour rule, see *House Practice*, ch. 16, § 45, pp. 432-433; and ch. 52, § 4, pp. 891-893.

with party leaders, allocate speaking time during the controlled time of 30 minutes of debate for each side.

16.1.2. Suspension of the Rules

Year after year in the contemporary House, the largest number of bills and resolutions has been considered under the suspension of the rules procedure. The motion is in order on Mondays, Tuesdays, and Wednesdays, during the last six days of a session, and at other times pursuant to a special order agreed to by the House. This procedure is most often used for noncontroversial or very popular pieces of legislation where brief debate and no amendments constitute a sufficient process for floor consideration.[349] It is also used to avoid an amendment process; to expedite consideration of a measure, especially when available floor time is limited; or to take a test vote to see if there is at least majority support for a measure, even if there might not be the two-thirds support required for passage under the suspension of the rules procedure.

It is the Speaker's discretion to schedule legislation for consideration by the suspension of the rules procedure. Committee chairs, therefore, work with the majority leadership to examine whether this procedure is appropriate for a measure and, if so, to schedule floor time. A committee chair and the committee's majority staff must make the case to leadership that majority and minority support is so widespread that the measure will pass with a two-thirds vote or on a voice vote. They must also provide evidence that the minority party would support considering the measure under this procedure.

At the appropriate time, the Speaker recognizes a member, normally a committee or subcommittee chair, to "move to suspend the rules and pass" the named measure.[350] Debate is limited to 40 minutes, and a proponent and an opponent each have up to 20 minutes of this debate time. This is controlled time—specific time available to the two floor managers to disburse to other Members to speak. The floor managers might consult their party leadership on the allocation of time and the order of Members' speaking. On many noncontroversial measures, a member of the minority party claims the time in opposition despite his or her support for the measure.

No floor amendments are allowed, although the motion may incorporate an amendment. In that case, the Member making the motion would say, "I move to suspend the rules and pass *[the bill or resolution number]* as amended" or "with an amendment." The vote to adopt the motion also adopts the amendment incorporated into the motion.

If a recorded vote is taken, a measure may pass only by a two-thirds vote of those present and voting. Many measures considered pursuant to this procedure, however, are passed on a voice vote.[351]

If a measure, or consideration of a measure, violates a House rule or precedent, its consideration pursuant to the suspension of the rules procedure obviates any violations because the motion is to "suspend the rules" in their application to the particular measure.[352]

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[349] The House sometimes considers under the suspension of the rules procedure a bill or resolution that was ordered reported from a committee but not reported, and also legislation that was not fully considered in a committee.

[350] Rule XV, cl. 1. Guidelines for the Speaker exist in Democratic Caucus and Republican Conference party rules on what measures are properly considered pursuant to the suspension of the rules procedure. These guidelines (which are not rules enforceable in the House) reference support within the committee(s) of jurisdiction and the cost of the legislation.

[351] See *House Practice*, ch. 53, pp. 897-905.

16.1.3. Special Rules

Major, complex, or controversial legislation is most often considered pursuant to a special rule agreed to by the House. A special rule is normally used if a measure was referred to more than one committee; if Members want more than 40 minutes to debate a measure and the opportunity to seek to amend it; or, even if a measure is privileged, parliamentary or political impediments exist to its consideration.[353] A special rule provides flexibility to the majority leadership: it allows the leadership to design an ad hoc set of procedures suited to the parliamentary, political, and policy issues of a specific piece of legislation.

The majority leadership, of course, determines whether and when a measure will be considered on the House floor pursuant to a special rule. A committee chair and the committee's majority staff must advise the leadership and the Rules Committee majority members on the procedures to include in a special rule pertaining to the vehicle, including general debate, amendments, points of order, and motions. The Rules Committee has authority to originate special rules;[354] the legislation reported from one or more committees is not referred to the Rules Committee. Specific committee concerns in special rules are examined in the next section ("16.2. Considerations Pertinent to a Special Rule").

Consideration of major legislation, therefore, involves what might be considered a two-step process. As the first step, the House must agree to a special rule. A typical special rule, among potential provisions, identifies a specific measure to be considered; indicates whether consideration will occur in the House or in the Committee of the Whole House on the state of the Union (the Committee of the Whole); establishes the duration of general debate and names the committees that control specified periods of time; structures the amendment process; waives no, some, or all points of order against the measure, its provisions, and amendments; possibly restricts certain motions; and lays out procedures for bringing the measure to a vote on final passage in the House.[355] A special rule is privileged legislation considered in the House (not the Committee of the Whole) under the hour rule. If agreed to, the special rule makes it in order for the named measure to be considered in the House or in the Committee of the Whole, as specified by the special rule.[356]

In short, House rules bestow privilege on special rules reported by the Rules Committee. If a special rule is agreed to by the House, privilege is bestowed on the bill or resolution named in the special rule.[357]

(...continued)

[352] For additional explanation of the suspension of the rules procedure, see CRS Report 98-314, *Suspension of the Rules in the House: Principal Features*, by Elizabeth Rybicki.

[353] Privilege is defined thus: "An attribute of a motion, measure, report, question, or proposition that gives it priority status for consideration. That status may come from provisions of the Constitution, standing rules, precedents, or statutory rules." *Congressional Quarterly's American Congressional Dictionary*, p. 188.

[354] An original measure is a "measure drafted by a committee and introduced by its chairman or another designated member when the committee reports the measure to its house." *Congressional Quarterly's American Congressional Dictionary*, p. 167.

[355] Special rules might also be very narrowly drafted, for example, only to provide a waiver of specific points of order against provisions in a measure. Special rules do not need to comprehensively address the legislative process on the House floor.

[356] See *House Practice*, ch. 52, pp. 885-896.

[357] "Except by unanimous consent, the House rarely considers a matter unless it is a privileged one or granted privilege by a standing or special rule." *Congressional Quarterly's American Congressional Dictionary*, p. 198. See CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by Richard S. Beth.

Once a special rule is agreed to, the second step is consideration of the named measure pursuant to the terms of the special rule. Most often, a measure will be considered in the Committee of the Whole, with one hour of general debate followed by an amendment process. When the amendment process has been completed, the Committee of the Whole rises and reports to the House. A separate vote could be taken on amendments agreed to in the Committee of the Whole. Further debate on the measure is precluded by the previous question having been ordered as a provision of a typical special rule. A motion to recommit by the minority is nonetheless in order pursuant to Rule XIX, clause 2. A vote on final passage then normally occurs.[358]

16.1.4. Other Routes

Other routes to the floor exist based on the type of legislation or the day of the week or month; legislation meeting certain criteria is privileged for floor consideration under these procedures. For example, legislation on the Private Calendar is privileged on the first and third Tuesdays of each month.[359] In addition to the Private Calendar, these other routes to the floor include

- Discharge Calendar, legislation on which is privileged on the second and fourth Mondays of each month;[360]
- District of Columbia legislation, which is privileged on the second and fourth Mondays of each month;[361] and
- Calendar Wednesday, available Wednesday of each week, when legislation on the Union or House Calendar may be called up under restrictive conditions.[362]

The House might also agree by unanimous consent to consider a piece of legislation or to structure some or all parts of floor consideration of a piece of legislation.[363]

16.2. Considerations Pertinent to a Special Rule

A committee having reported a bill or resolution, or two or more committees having reported a piece of legislation, the route to the floor is likely to go through the Rules Committee if the legislation is important, lengthy, controversial, or complex. The Rules Committee is sometimes colloquially called the "Speaker's committee" or the "arm of the [majority] leadership." The Speaker appoints majority members; the minority leader appoints minority members. In the modern Congress, majority-party members have outnumbered minority-party members by a ratio of 2:1 plus one, or nine majority members and four minority members.

As indicated, a reporting committee's chair and majority members and staff work with the majority leadership on scheduling Rules Committee consideration of a special rule for a specific

[358] See CRS Report RS20147, *Committee of the Whole: An Introduction*, by Judy Schneider; and CRS Report 98-564, *Committee of the Whole: Stages of Action on Measures*, by Richard S. Beth.

[359] Rule XV, cl. 5.

[360] Rule XV, cl. 2. For an explanation of discharge procedures, *see* CRS Report 97-552, *The Discharge Rule in the House: Principal Features and Uses*, by Richard S. Beth.

[361] Rule XV, cl. 4.

[362] Rule XV, cl. 6.

[363] See *House Practice*, ch. 54, pp. 907-917. For an introduction to House floor procedures, see CRS Report 95-563, *The Legislative Process on the House Floor: An Introduction*, by Christopher M. Davis.

bill or resolution. The Rules Committee has authority to originate special rules; the legislation reported from one or more committees is not referred to it.[364]

To initiate Rules Committee consideration, a committee chair might formally request a Rules Committee hearing on reported legislation through a letter to the Rules Committee chair; the letter might be supported or co-signed by the ranking minority member. If and when the majority leadership is ready to take the measure to the House floor, a hearing will be scheduled following consultations between the majority-party leadership, the leadership of the reporting committee or committees, and the Rules Committee majority members. These discussions are likely to cover timing, the floor vehicle, and potential amendments, as well as other considerations.

The Rules Committee's regular meeting date is Tuesday, but it is within the chair's discretion to cancel that meeting or to schedule other meetings as the chair determines necessary. Indeed, the committee often meets on Wednesdays and Thursdays and may meet other days.[365] By reporting special rules on one day, such as Tuesday, the committee accommodates the one-day layover rule applicable to special rules,[366] allowing the House to consider special rules and the legislation they make in order as early as the next day.

The majority leader, in a floor discussion with the minority whip on a Thursday or Friday, normally announces the House's legislative schedule for the next week. For those measures that will be considered pursuant to a special rule, the Rules Committee normally makes an announcement about its hearing on that legislation and, if it will require amendments to be submitted in advance, on the deadline for submitting amendments. The committee's website contains information and a form to be used to submit amendments. The committee strongly encourages that amendments be drafted by the Office of Legislative Counsel and reviewed by the Office of the Parliamentarian.

At the Rules Committee hearing for a special rule on a piece of legislation, only Members testify. The chairs and ranking minority members of the committees that reported the legislation traditionally testify first, briefly explaining the legislation and perhaps requesting the procedural provisions they would like to see in a special rule or left out of a special rule. If there are points of order that could be raised against consideration of the legislation or against committee amendments, they explain and request provisions to be included in the special rule, or to be left out of the special rule, to deal with these issues. The chair and ranking minority member might agree or disagree in some or all of their testimony to the Rules Committee. They are questioned by the Rules Committee members.

Members who wish to offer amendments might testify. If a Member testifies, he or she might briefly explain the amendment to the committee; request a waiver of points of order that may be made against it, if applicable; and answer questions from Rules Committee members. Members who wish to have provisions already in the measure protected or not protected from points of order might also testify, as may Members with other procedural goals.

The Rules Committee then marks up a draft special rule in the form of a simple resolution. Recorded votes might occur during the markup on amendments to the special rule affecting the

[364] Pursuant to a special rule, the House sometimes considers legislation that was ordered reported from a committee but not reported and legislation for which consideration was not begun or completed in a committee.

[365] The committee rules of the Committee on Rules are available online at https://rules.house.gov/rules-committee-rules.

[366] Rule XIII, cl. 6(a). Pursuant to this same clause, the House might also vote by two-thirds to consider a special rule on the same day it is reported. The Rules Committee has also reported special rules waiving the one-day layover, and the House has also adjourned and reconvened on the same calendar day in order to begin a new legislative day.

vehicle, the amendment process or making specific amendments in order, waivers of points of order, or other components of the draft rule. The committee votes on reporting the special rule and also files with the House a written report on the special rule. If agreed to by the House, the special rule makes in order the consideration of the named legislation pursuant to the terms of the special rule.[367]

On the House floor, the majority and minority floor managers of a special rule are members of the Rules Committee. These members tend to specialize and to manage special rules for measures reported by certain committees or on certain topics. The floor managers, perhaps in consultation with the reporting committees and their party leadership, make decisions on which Members may speak, for how long, and in what order. They are the ones who yield a specific amount of controlled time to each Member, who is then recognized to speak by the Speaker or Speaker pro tempore. Controlled time is a specific amount of time available to the two floor managers to disburse to other Members to speak. The floor managers on their own time, and any Member who has been recognized to speak, may yield to another Member, for example, for a query to the Member holding the floor so long as he or she does not attempt to yield a specific amount of time.

In preparing for the Rules Committee, the reporting committees' chairs, ranking minority members, other committee members, and interested Members might consider what procedural details a special rule often addresses:

16.2.1. Floor Vehicle

The first consideration is what vehicle the special rule will make in order for floor consideration and what will be considered original text for the purpose of amendment (if amendments will be allowed, as discussed in "16.2.4. Amendments Made in Order"). The special rule could make the measure reported by a committee the vehicle. Committee amendments also reported would then be voted on by the House, and those amendments would be subject to further amendment.[368] A special rule could also make in order consideration of another measure not considered by a committee, perhaps representing a compromise between reporting committees that was arrived at subsequent to reporting.

Committees, however, have increasingly reported measures with an amendment in the nature of a substitute. Concomitantly, the Rules Committee has reported special rules making it in order to consider such amendments. Special rules have further either made these amendments in the nature of a substitute original text for purpose of amendment or contained self-executing provisions adopting amendments to the amendment in the nature of a substitute.[369]

Whether a measure has been reported from one committee or multiple committees, special rules may make in order a different or changed amendment in the nature of a substitute than was reported. This situation regularly occurs when multiple committees report. These "new" amendments in the nature of a substitute do not necessarily reflect a substitution of the Rules Committee's judgment for that of the reporting committees or committees of jurisdiction. Rather, negotiations or discussions lead to large or small changes.

[367] A special rule is formally referred to as a "special order of business resolution."

[368] *House Practice*, ch. 2, § 29, pp. 44-45.

[369] A special rule might contain one or more self-executing provisions. By agreeing to the special rule, the House also agrees to these provisions, by which it deems itself to have taken an action, such as having approved an amendment to the measure named in the special rule. No vote is then taken on the self-executed action.

The changed amendment in the nature of a substitute might reflect the addition or deletion of provisions to accommodate different amendments reported by committees that marked up the legislation, or reflect a compromise among reporting committees or the committees of jurisdiction. Provisions might be added or deleted that are perceived to affect majority sentiment in the House. Provisions might be added for which there was not sufficient support in committee. The majority leadership or majority caucus might have favored changes that the Rules Committee incorporates into the changed amendment in the nature of a substitute, rather than submit them to the amendment process on the House floor.

Changes in a floor vehicle, such as an amendment in the nature of a substitute, might occur pursuant to special rules provisions known as self-executing provisions: they amend the floor vehicle upon adoption of the special rule. These amendments are specified in the special rule, its accompanying report, and any named ancillary documents. By incorporating their adoption into agreement to the special rule, the Rules Committee precludes a vote on them during the amendment process and, in addition, avoids a potential separate vote on them after the amendment process when the Committee of the Whole rises and reports to the House.[370]

16.2.2. Waivers of Points of Order

Points of order may potentially lie against the consideration of a measure or against certain of its provisions. A special rule may disallow points of order by waiving them, or, by its silence, it may allow them. Special rules sometimes waive specified points of order but not others, or waive all points of order except specified ones.[371]

Points of order may lie against a measure for numerous reasons. Some points of order related to a committee's consideration of a measure were discussed above. (See "15.7. Consequences of Rules Violations in Markups and Committee Reports.") Some points of order may concern floor procedures, such as the three-day layover requirement (with exceptions) of Rule XIII, clause 4. A number of restrictions on measures—reported from the Appropriations Committee, Ways and Means Committee, and legislative committees—are contained in Rule XXI; for example, a point of order would lie against a measure reported from a committee other than Ways and Means that contained a tax or tariff provision. Still other potential points of order exist in the Congressional Budget Act, some constraining the potential breadth of legislation and others enforcing decisions implementing the current budget resolution.[372] Other rules and other statutes containing House rules may provide a basis for additional points of order.

16.2.3. General Debate

Most special rules provide for one hour of general debate, equally divided between the majority and minority, and controlled by majority and minority floor managers, typically the reporting committee's chair and ranking minority member. However, where a measure has been reported from more than one committee, a special rule will likely divide general debate time differently

[370] As an example, H.Res. 658, a special rule providing for the consideration of H.R. 1638, contained this provision demonstrating several of the variations discussed here: "In lieu of the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115-47."

[371] *House Practice*, ch. 37, § 1, pp. 679-681; § 5, pp. 685-686; § 10, pp. 689-690; and ch. 26, § 19, pp. 580-581.

[372] 2 U.S.C. § 601 et seq. See CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

and perhaps expand the time to more than an hour to accommodate debate time under the control of each of the committees that reported the measure. The majority and minority floor managers yield specific amounts of time to Members speaking during general debate. No amendments are offered during general debate, although it is possible Members' discussion could presage the amendment process.

16.2.4. Amendments Made in Order

Special rules that structure the amendment process for a named bill or resolution have been classified into three approaches:

1. open, indicating any amendment may be offered that complies with House rules and precedents;
2. closed, indicating that no amendments are allowed to be offered; and
3. structured, indicating that only amendments identified by the special rule are allowed to be offered and, in contemporary practice, may only be considered pursuant to restrictions on time and other factors listed in the special rule.

These three categories consist of numerous variations. Some variations have been dubbed modified open rules or modified closed rules. The Rules Committee might label a special rule in its summary of the rule. Other special rules structure the manner in which amendments are voted on to enhance the probability of a certain outcome and have been called "king of the hill" and "queen of the hill" special rules.

The chair and majority members of the reporting committee(s), the majority members of the Rules Committee, and the majority leadership regularly negotiate or discuss how the amendment process is structured. Open rules have fallen from favor, if for no other reason than Members have so many demands on their time in a legislative workweek that in many circumstances they favor a degree of predictability and efficiency not associated with open rules. Closed rules, in contrast, disallow any Member from offering an amendment and leave the minority with just the motion to recommit to present an alternative or a change. The majority leadership might favor use of a closed rule when it wishes to force an up-or-down vote on a measure as written or when it wishes to move expeditiously on a measure.

Structured rules have become the most prevalent form of rule in the contemporary House, with amendments specified made in order. In the text of the special rule, the Rules Committee often references amendments made in order as those printed in the Rules Committee's report, the *Congressional Record*, or elsewhere. The special rule also often places restrictions on amendments made in order: an amendment may only be offered by a specific Member, must be offered in the order listed, may not be debated for more than a specified time, is not subject to further amendment, and so on. Nonetheless, Members chafe at special rules they consider too restrictive.

If an amendment is made in order, the special rule often waives points of order against it. In the absence of a waiver, a Member could reserve or make a point of order once the amendment is reported on the House floor. If the point of order is made and overruled by the presiding officer, the amendment is considered. If the point of order is made and sustained, the amendment is not in order and will not be considered.

16.2.5. Motions Precluded or Restricted

A special rule may also preclude or restrict motions. For example, a motion to strike the enacting clause is a killing motion. If the Committee of the Whole agrees that the House consider the

motion, the committee rises and reports its action to the House, where the motion is considered. If agreed to in the House, consideration of the measure would end. If not agreed to in the House, the House would again resolve into Committee of the Whole to continue consideration of the measure. A special rule could preclude this motion.

Special rules also sometimes preclude or restrict routine motions, such as to strike the last word, allowing only the majority and minority floor managers to make such motions.

16.2.6. House Action

Where a measure has been considered in the Committee of the Whole, a special rule normally provides that the Committee of the Whole rise and report the measure to the House, with any amendments that were adopted, at the conclusion of the Committee of the Whole's consideration. A special rule also contains a self-executing provision ordering the previous question. A separate vote on any amendments adopted in the Committee of the Whole is possible, but there is no further debate. A Member might request a separate vote where an amendment was adopted by a very narrow margin and there is a chance that the House would vote differently from the Committee of the Whole. By House rule and by restatement in a special rule, the minority is guaranteed a motion to recommit, with or without instructions, as explained immediately below. The engrossment and third reading, a procedural step typically taken by unanimous consent, follows, and then the vote on final passage occurs.

16.2.7. Motion to Recommit

Rule XIII, cl. 6(c) and Rule XIX, cl. 2 ensure the minority's right to offer a motion to recommit when the previous question is ordered, or pending its ordering, in the House before a vote on final passage of a bill or resolution. A motion to recommit appears to but does not send a measure back to the committee that reported it. A motion to recommit may be made without or with instructions. To recommit without instructions is a motion to kill the measure. To recommit with instructions is a motion to amend the measure. If the motion is successful, the House then votes on the proposed amendment. In the 111th Congress, Rule XIX was amended to limit the motion to recommit with instructions to report back to the House forthwith. Previously, a motion to recommit could be worded so that, if agreed to, the measure would be considered at a later time, if at all.[373]

Although a motion to recommit with instructions must be germane to the measure being considered, it may rewrite the entire measure or deal with a very narrow aspect of it. In the contemporary House, the minority has most often chosen to offer narrower rather than broader amendatory instructions. This tactic has allowed the minority to offer amendments that present a key alternative, distinguish the parties, put at least some majority Members on the spot politically, or serve another purpose.

16.2.8. Post-Passage

A special rule sometimes accommodates other actions by the House relevant to the measure named in the special rule. There could be related measures that the House has considered or will consider, and the special rule could contain self-executing language incorporating them into the named measure under one bill or resolution number. The measure named in the special rule might reflect two or more distinct measures, and the special rule could contain self-executing language

[373] Sec. 2(g) of H.Res. 5 (111th Cong.), agreed to in the House January 6, 2009.

that severs the named measure into two or more freestanding measures. A special rule could also contain self-executing language pertaining to amendments between the houses or conference if Senate action has been taken or is anticipated.

17. Considerations in a Two-House Strategy

A complex consideration in contemplating committee or floor action is whether the House or the Senate should act first on related legislation. Action by one chamber might add momentum to a piece of legislation in the second chamber. Action by one chamber might also set a framework for legislation that politically and in policy choices boxes in the other chamber, and the framework could force or facilitate further action. However, the House, with its rules favoring majority control and decision making, might force Members to cast difficult votes without the Senate, with its rules favoring minority and individual rights and deliberation, ever voting on the same or a similar measure.

In thinking through a two-house strategy, the majority or minority in one chamber might look to the majority or minority in the other chamber to add or delete provisions that cannot be acted on procedurally or politically in one house. The Senate, with rules allowing nongermane amendments, could send the House legislation that would be difficult to get through the House committee system, presenting the House with a broader bill perhaps favored by the House majority party. Or, these nongermane amendments could derail legislation in the House. The House majority, alternatively, might be able to use their chamber's majoritarian procedures to pass a measure closely aligned with party goals, anticipating that the Senate, with Senators representing diverse statewide constituencies, will compromise on those favored goals in order to gain the necessary votes for passage. The House measure, however, will have set a marker for negotiating a final version of a measure that must pass both houses in order to be sent to the President.

Procedurally, either house might act first and consider its own measure. A house could act second and consider its own measure or a measure passed by the first chamber, which could have ramifications for the amendment process and for the process of reconciling differences. Leaders might choose to take up a measure passed by the other chamber if they expect to pass it unchanged, which often occurs on noncontroversial legislation and on legislation in which the two chambers are able to informally work out agreements before one or both chambers act. On many major pieces of legislation, each chamber usually passes its own version, using as appropriate a House or Senate vehicle or, in the second chamber to act, an amendment in the nature of a substitute for the measure passed by the first chamber. The House and Senate then reconcile differences, either through a process called amendments between the houses or through a conference process.[374]

[374] Each chamber also holds at the desk in the Senate or at the Speaker's table in the House several measures passed by the other chamber to be used as legislative vehicles if needed for constitutional, procedural, or political reasons. For example, the Senate might hold a House-originated bill (H.R.) at the desk in case it moves first on a tax or appropriations measure. It can amend the House-passed bill to include the Senate provisions and return the bill to the House, thereby complying with the constitutional requirement.

In the 115th Congress, for procedural reasons, the House held at the Speaker's table a House-passed bill that had been amended by the Senate and returned to the House. The Senate had amended H.R. 1370, the Department of Homeland Security Blue Campaign Authorization Act, on November 6, 2017. The House received the message from the Senate on November 7. On December 21, pursuant to a special rule, H.Res. 670, the chair of the House Appropriations Committee called up H.R. 1370 and offered a motion to concur in the Senate amendment with a House amendment, the text of which appeared in a Rules Committee print. The amendment was the continuing appropriations resolution for (continued...)

One consequence of these kinds of considerations is that House committees might not report legislation until Senate committees have reported or the Senate has passed a measure. Alternatively, Senate committees could wait to see what happens in the House.

There are also restrictions in the Constitution and in the Constitution as interpreted by Congress that may constrain the consideration of legislation. The Constitution requires revenue measures to originate in the House, but it does not restrict their amendability in the Senate. By interpretation and practice, the House insists that the Constitution also requires appropriations measures to originate in the House, although the House interpretation does not limit the Senate's ability to amend appropriations measures. In agreeing to tax and appropriations bills, therefore, Congress uses a House bill (H.R.) or joint resolution (H.J.Res.) as the form for considering legislation and enacting law.

Finally, no bill or joint resolution may be presented to the President for his signature or veto unless the House and Senate have both agreed to the same bill or the same joint resolution with one text.

18. Role of Committee and Personal Staff

Congressional committee and subcommittee staff play a significant role in the legislative process. In performing their individual functions, staff have the opportunity to influence a legislative product and plot the road a panel takes to achieve its purpose. Three observations made much earlier are important today in a changed congressional environment, where the tenure of Members and staff is much shorter than during much of the post-World War II era and where term limits have been imposed on committee chairs.

One former senior committee staffer noted that committee staff roles can be described as having four aspects: connecting, collecting, initiating, and implementing. In connecting, staff work with groups and organizations. In collecting, they amass information essential to the committee work. In initiating, staff must be creative in determining what a committee might do. And in implementing, staff must understand the needs of their committee members and how to navigate the legislative labyrinth.[375]

Two political scientists similarly identified committee staff functions as (1) gathering information and routing information to committee members; (2) facilitating integration with other committees, the other chamber, the executive branch, the press, party leadership, and others; and (3) innovating by identifying issues and helping to formulate legislative solutions.[376] Three other political scientists—acknowledged congressional scholars—have commented that committee staff influence can be "direct or indirect, substantive or procedural, visible or invisible."[377]

(...continued)

fiscal year 2018, effective through January 19, 2018. The House and then the Senate both agreed to the amendment, clearing the amended bill for the President's signature. By choosing a vehicle far along in the legislative process, the House obviated the use of many procedures otherwise available in the House and the Senate and expedited the conclusion to passage of the continuing resolution.

[375] John J. Jennings, "The Congressional Committee Staff Member: The Hidden Link in the Legislative Process," *NASSP Bulletin*, vol. 23, no. 520, November 1989, pp. 12-15.

[376] Edward I. Sidlow and Beth Henschen, "The Performance of House Committee Staff Functions: A Comparative Exploration," *Western Political Quarterly*, vol. 38, no. 3, September 1985, pp. 485-494.

[377] Roger H. Davidson, Walter J. Oleszek, and Frances E. Lee, *Congress and Its Members*, 11th ed. (Washington, DC: CQ Press, 2008), p. 225.

Committee staff tend to be expert in particular policy fields and work in a specified range of policy subjects. To committee staff fall the responsibilities for briefing committee members on pending policy issues in a committee's purview, planning the committee agenda, readying legislation for markup and reporting, drafting documents such as committee reports on legislation, assisting floor managers of legislation when the legislation is considered on the floor, and helping with conference committee negotiations. Before and during hearings, committee staff organize hearings, select and interview witnesses, review testimony, and draft members' questions.

Each of these descriptions can be further defined within the legislative arena as functions related to the administrative, procedural, and substantive steps necessary to prepare for a markup. Staff continue to provide procedural and policy advice throughout the markup itself, analyze proposals, and work on the next steps of lawmaking once a markup is completed. In general, a markup should be strategically planned to minimize controversy, provide members with political dividends, and position the committee for future action.

18.1. Administrative Role

Prior to a markup, committee or subcommittee staff perform administrative functions to prepare both the room and committee members for the meeting. Most of these tasks are the responsibility of the majority staff. First, and perhaps most important, a committee room must be reserved for the day(s) the meeting will be held, and the room must be set up. If it is a subcommittee markup, one decision concerning a room is whether a subcommittee hearing room will suffice or whether a larger room, such as the main committee room, is needed. If several subcommittees are holding simultaneous markups, room selection may be limited.

On the dais, nameplates are positioned at the appropriate seat of each committee or subcommittee member. Some panels put nameplates in place for all panel members; others put them in place only for members in attendance when the meeting begins, adding nameplates as additional members arrive. At each member's position on the dais are appropriate copies of legislation and other documents and a pad, pen or pencil, and water. Microphones, timers, and monitors must be checked as working, including the hookup to the House floor, in the committee room and in any staff rooms accessed from the sides or the dais or from behind it.

Seats in the room, not on the dais, are often reserved for press, representatives of the Administration, and other selected personnel. Some panels set tables at the sides of a room, reserving them for press. Administration representatives might be seated with committee staff and legislative counsel at the staff table or at seats in the front row of the audience. "Reserved" placards might be placed on other audience chairs for additional observers.

Other congressional officials serve a function at committee meetings, and committee staff schedule their presence. Capitol Police, official reporters, and legislative counsel are notified of the meeting, provided with information they will need, and informed of the role they will be asked to play. The Capitol Police should be alerted to any security concerns or anticipated problems.

Numerous papers must be prepared and distributed, both prior to a markup and during it. For example, the committee clerk(s) and other staff need voting sheets for the times during the markup when one of the clerks calls the roll and other majority and minority staff keep their own tally. Individual amendments or amendment packets can be held at the clerk's table or placed at the members' places on the dais. As already noted, additional, supplemental, minority, and dissenting views are also filed with the committee clerk. (See **Appendix B**, House Committee Markups: Administrative Preparation.)

18.2. Procedural Role

One of the most important functions a committee staff member performs is ensuring that a committee complies with its own internal committee rules and applicable House rules. Adherence to the notification requirement and compiling and distributing the documents that must be provided prior to a committee meeting are integral to the procedural success of a markup. Each committee's rules detail specific notification requirements. If they are not met, staff must be ready with appropriate motions that can be made that might affect the procedural conduct of the meeting.

Another function of the majority and minority committee staffs is to prepare scripts for committee members, especially the chair and ranking minority member, for possible procedural motions and requests that might be offered during a meeting and responses to them. (See Appendices C-S.) The staffs must also determine, with direction from the chair or ranking minority member, which members of their party should back up the chair or ranking minority member with timely assertions of motions, requests, and responses.

Committee staff often meet with personal staff of committee members, and members themselves, to discuss procedural and political strategy prior to meeting. Committee staff prepare opening statements for the chair and ranking member, while personal staff prepare statements for other members. It is a responsibility of a member's staff to ensure their party's professional committee staff is aware of the member's amendments and goals for a markup.

18.3. Issue Role

Committee staff provide issue and policy expertise for the jurisdictional subjects covered by their committee. As one observer put it, staff are "sucking in data and arguments from many sources and refining them into legislative material."[378] The staff hold meetings with the executive branch officials, interest group representatives, policy experts, and others prior to a committee markup. Some of these individuals may have testified at related hearings and may have a stake in the outcome of the markup. Staff are also responsible for maintaining contact with their Senate counterparts. If a Senate committee, leadership group, or group of Senators is working on related or companion legislation, coordination with them should also occur prior to markup. A press strategy is usually devised to maximize the impact of markup action and to position legislation for floor action.

Staff prepare background material for members in advance of a markup. These materials might include a summary of the hearings held on the issue; a summary of the measure to be marked up; information on subcommittee action, if appropriate; and other information. Majority and minority staffs also assemble or prepare advocacy materials and talking points on the markup vehicle and possible amendments and provide them to all of their party's members or selectively to members who will take the lead on certain arguments, amendments, or other aspects of the markup. A committee's partisan professional staff might brief their committee members' legislative staff members on measures and policy issues in a markup.

Once a markup is finished, committee staff and Office of Legislative Counsel draft the committee report, as already noted, and committee staff may draft committee members' views to be included in the report. Counsel from the Office of Legislative Counsel also draft the Ramseyer section and

[378] Allen Schick, "The Supply and Demand for Analysis on Capitol Hill," *Policy Analysis*, vol. 2, no. 2, spring 1976, p. 228.

front cover, and prepare the reported version of the legislation. This activity includes liaison with other entities such as the Congressional Budget Office, which provides cost estimates for inclusion in committee reports.

As noted during hearings on congressional reform in 1973: "[P]rofessional staffs gather intelligence and contribute to the integration of the Congress[,] contribute to the integration of committees and subcommittees, to intercameral integration, and to legislative-executive relations."[379]

[379] Samuel C. Patterson, in U.S. Congress, House, Select Committee on Committees, *Hearings*, part 2, 93rd Cong., 1st sess. (Washington, DC: GPO, 1973), p. 676.

Appendix A. Glossary of Selected Markup Terms

This appendix includes brief definitions of markup terms. For procedural explanations, see the manual's text. Explanations of terms can be located by consulting the Table of Contents.

Additional Referral/Initial Additional Referral: Upon introduction, measures are normally referred to one or more committees for each committee's consideration. If a measure is referred to more than one committee, the Speaker is directed to designate one committee as the "committee of primary jurisdiction"; other committees receive an initial additional referral, normally for the consideration of the measure's provisions within their jurisdiction and possibly under a time limit, imposed at the time of referral or later. In "extraordinary circumstances," the Speaker is authorized not to designate a primary committee. (See Primary Jurisdiction.)

Adjourn, Motion to: Any committee member may move that the committee adjourn. The motion is not debatable or amendable, and it is not subject to a motion to table. If defeated, the motion may be renewed after intervening business or debate.

Amendment: A proposal to change the text of a measure or of another amendment. An amendment is a motion and may take the form of a motion to strike, a motion to insert, or a motion to strike and insert. House rules allow amendments in the first and second degree. (See Perfecting Amendment; Substitute Amendment; Insert, Motion to; Strike, Motion to; Strike and Insert, Motion to; Second-Degree Amendment; and Amendment in the Nature of a Substitute.)

Amendment in the Nature of a Substitute: An amendment that proposes to replace the entire text of a measure.

Appeal: Any committee member may challenge many, but not all, rulings or decisions made by the committee chair. For example, under House precedents, a member may appeal a ruling on a point of order but not on the chair's count for a quorum. An appeal is debatable (except as it relates to the priority of business and the germaneness of debate), and it is subject to a motion to table. (See Point of Order.)

Base Text: Used interchangeably with the term *original text* to indicate the markup vehicle (a measure, draft, or amendment in the nature of a substitute), amendability of the text in two degrees, and consideration of the vehicle as unamended text. (See also Original Text, and compare Original Measure and Clean Bill.)

Chair's Mark: One name for a draft of a measure.

Clean Bill: A measure introduced after a markup that incorporates the changes adopted in a committee markup. The measure is treated as a new measure upon introduction and assigned a number. It is referred to the committee that conducted the markup. (Compare Original Measure.)

Close or Limit Debate, Motion to: Any committee member may move to close (end) or limit (to a specified duration or until a specific time) debate on a particular amendment or section of a measure. The motion is not debatable, may be amended, and is subject to a motion to table. The motion cannot be made on a measure itself until the measure has been read in full, or reading has been dispensed with and the measure opened to amendment at any point.

Commit, Motion to: In a committee, a motion to send a measure to a subcommittee that has not previously received the measure.

Committee: A panel of Representatives that considers legislation and conducts oversight and investigations in behalf of the House. Each committee has a jurisdiction defined in House rules or

in establishing legislation. In this *Manual*, committees discussed are those with legislative authority—authority to report legislation to the House for its consideration.

Committee Print: A document printed by a committee for its use. Legislative drafts are sometimes published in this form. A committee print is also the format that may be used for staff reports, committee and subcommittee rosters, committee rules, legislative compilations, CRS reports requested or of interest to the committee, and other items.

Committee Report: See Report.

Designate: Once a committee has dispensed with the reading of a measure for amendment, the clerk "designates" each section or other unit of a measure as it is opened for amendment—the clerk announces only the section or unit number and does not read the entire section or unit.

Discharge, Motion to: In a committee, a motion to remove a measure from a subcommittee and bring it before the full committee.

Dispense with First Reading: A measure must be read in full in committee before consideration begins. This reading is normally dispensed with by unanimous consent. Alternately, any committee member may move to dispense with the first reading, but only if printed copies of the measure were available. The motion is not debatable and may not be tabled.

Dispense with Second Reading/Reading for Amendment: In committee, a measure must be read by section or paragraph for amendment. Reading each section or paragraph is normally dispensed with by unanimous consent, and the clerk instead designates each section or paragraph as it is opened for amendment. There is no motion to dispense with the reading, even if printed copies of the measure were available.

Division of a Question: A division of an amendment or motion with two or more separable propositions so that one or more of the propositions may be voted on separately. Any member may demand a division of a question, on which the chair rules. A member may make a point of order against the demand.

Division Vote: In committee, a vote by a show of hands with no names recorded.

En Bloc Amendments: Any member may ask unanimous consent that two or more amendments be considered together or that a single amendment to more than one section be considered.

Executive Session: A meeting not open to the public. A committee must vote in open session to close a meeting.

First-Degree Amendment: An amendment to the base text. Under House rules, a substitute for the amendment is also considered to be a first-degree amendment. (See Second-Degree Amendment, Perfecting Amendment, and Substitute Amendment.)

Five-Minute Rule: A House rule, which, as it operates in committees, allows members to obtain five minutes to debate. In committees, members do not need to "move to strike the last word" to obtain five minutes to speak, but many members do so.

Germaneness: A requirement that an amendment have a close relationship in subject to the text it proposes to change. Numerous precedents interpret this close relationship.

Hearing: A committee meeting to receive testimony.

Insert, Motion to: A form of amendment to add text.

Jurisdiction: A committee's subject-matter scope over issues, legislation, and oversight.

Keying: Instructions in an amendment relating the amendment to the text being amended.

Managers' Amendment: Usually, an amendment with a number of changes to the markup vehicle offered by the chair or chair and ranking minority member, and possibly others, to a measure.

Mark Up (vb.) /Markup (n., adj.): A committee meeting to debate and amend a measure or draft, with the purpose of reporting recommendations to the House.

Markup Vehicle: The legislative text—a bill or resolution, a draft, or an amendment in the nature of a substitute—that a committee considers in a markup.

Object, To: If a member requests unanimous consent to take an action, another member may stop the action by saying, "I object." (See Unanimous Consent, and Reserve the Right To Object.)

Ordered Reported: Status of a measure upon a committee's formal action of agreeing to report it to the House. (See Report.)

Original Measure: House Rule XIII, clause 5 allows specified committees in a few instances to draft a measure in committee and to introduce it at the same time it is reported. (Compare Clean Bill, Base Text, and Original Text.)

Original Text: Used interchangeably with the term *base text* to indicate the markup vehicle (a measure, draft, or amendment in the nature of a substitute), amendability of the text in two degrees, and consideration of the vehicle as unamended text. (See also Base Text, and compare Original Measure and Clean Bill.)

Parliamentary Inquiry: Any committee member, at the discretion of the chair, may seek an explanation from the chair about the pending procedural situation. The chair will not respond to hypothetical questions, or to queries regarding the effect of an amendment or the meaning of a provision or amendment.

Perfecting Amendment: An amendment to a measure or to another amendment that changes some but not all of the text. (See Substitute Amendment.)

Point of Order: Any committee member may raise a procedural criticism that the committee is violating its own committee rules of procedure or House rules. The member must cite the specific provision being violated. A chair determines, first, how much debate to allow on the point of order, and, second, whether the challenge has merit. (See Reserve a Point of Order, and Appeal.)

Postpone a Vote: Authority in a committee's rule for a chair to postpone a vote on an amendment or measure.

Postpone to a Day Certain, Motion to: Any committee member may move to postpone a markup to a day certain. The motion is debatable within narrow limits. Although the motion is amendable, an amendment to specify the time of a new committee meeting is not in order. The motion cannot be made on a measure itself until the measure has been read in full, or reading has been dispensed with and the measure opened to amendment at any point.

Postpone Indefinitely, Motion to: Any committee member may move to postpone consideration indefinitely. Such a motion is debatable and the merits of the legislation can be discussed. However, the motion is not amendable, and if it is agreed to, it kills the bill.

Previous Question, Motion for the: Any committee member may move the previous question, a nondebatable motion to close consideration and bring the pending matter to an immediate vote. The motion is not available in all parliamentary circumstances. Normally, a chair recognizes a majority-party member for this motion.

Primary Jurisdiction: Upon introduction, measures are normally referred to one or more committees for each committee's consideration. If a measure is referred to more than one committee, the Speaker is directed to designate one committee as the "committee of primary jurisdiction"; other committees receive an initial additional referral, normally for the consideration of the measure's provisions within their jurisdiction. (See Additional Referral/Initial Additional Referral.)

Proposition: A measure, motion, or amendment under consideration. Also the separable, substantive portions of a motion, amendment, or, in some instances, a concurrent or simple resolution, or the substantive policy provision of an amendment. The object of a question.

Question: The pending proposition.

Question of Consideration: Any committee member may raise a question of consideration against motions, bills, and resolutions. The question must be raised after the matter is read, or reading has been dispensed with, but before debate begins. The motion is not debatable or amendable.

Quorum: The number of members required to be present for various forms of committee business is set forth in committee rules; the quorum requirement may be expressed as a number, percentage, or proportion of the committee's membership. Any committee member may suggest the absence of a quorum. The chair counts for a quorum, and his or her count is conclusive and not subject to appeal. If a quorum is not present, once the clerk calls the roll and a quorum is present, a committee resumes its business.

Read: A measure must be read in full, unless its reading is dispensed with by unanimous consent or motion. A measure must then be read by section or paragraph for amendment. Reading of each section or paragraph may be dispensed with by unanimous consent. Each amendment must be read in full, unless reading is dispensed with by unanimous consent.

Recess: By committee rule or motion, a chair may suspend a meeting.

Recommit, Motion to: In committee, a motion to return a measure to a subcommittee that has already considered it.

Reconsider: Any committee member who voted on the prevailing side of a vote may move to reconsider that vote. The motion to reconsider is debatable if the question to which it relates was debatable at the time the committee voted on it. The motion to reconsider is subject to a motion to table. If the motion to reconsider is agreed to, a vote is taken on the underlying matter without debate.

Recorded/Roll-Call Vote: A vote in which members are recorded as for, against, present, or absent on a question.

Regular Order: Any committee member may demand regular order, thereby requiring the chair to immediately act on the pending matter, such as a reservation of a point of order.

Report (vb., n.): (1) Once a committee has completed the debate and amendment portion of a markup, the committee normally votes immediately on a motion to report—submit—the measure with the committee's recommendations to the House. (2) A committee also writes a report—a document complying with the requirements of House Rule XIII and other requirements—explaining the committee's recommendations. When this document is filed with the House, the marked-up measure's status is "reported to the House." (For another use of the word "report," see Designate.)

Reserve a Point of Order: A member may indicate that he or she may make a point of order rather than immediately make one. When the chair wants to proceed, he or she will ask the member whether the member wishes to withdraw the reservation or to make a point of order. (See Point of Order.)

Reserve the Right To Object: Rather than object to a unanimous consent request, a member may say, "Reserving the right to object…." The member may then must pose a question to, or engage in a brief colloquy with, the proponent of the request, or make a brief statement. The member must ultimately withdraw the reservation or object. (See Unanimous Consent, and Object, To.)

Second-Degree Amendment: An amendment to a first-degree amendment. (See First-Degree Amendment, Perfecting Amendment, and Substitute Amendment.)

Sequential Referral: Referral of a measure to more than one committee in sequence, in which a measure, or an amendment to a measure adopted in markup, includes a provision or provisions within the jurisdiction of a second or additional committees.

Split Referral: Referral of different portions of a measure to different committees.

Staff Draft: One name for a draft of a measure.

Strike, Motion to: A form of amendment to delete text.

Strike and Insert, Motion to: A form of amendment to both delete and add text.

Strike the Enacting Clause, Motion to: A motion to kill a measure by striking the enacting clause, which gives legal force and effect to enacted measures.

Subcommittee: A unit of a committee, often with jurisdiction defined in committee rules over a portion of the committee's jurisdiction. Some committees also create ad hoc subcommittees, task forces, and other units for special purposes.

Substitute Amendment: An amendment that replaces entirely the text of another amendment. A substitute amendment that replaces the entire text of a measure is called an amendment in the nature of a substitute. (See Perfecting Amendment, First-Degree Amendment, and Second-Degree Amendment.)

Table, Motion to Lay on the: Any committee member may move to table certain items. Adoption of the motion would kill the proposal. The motion is not debatable.

Unanimous Consent: A request to set aside one or more House or committee rules and perhaps to proceed in another manner. (See Reserve the Right to Object, and Object, To.)

Voice Vote: A vote by voice in which members positions are not recorded. A quorum need not be present for a voice vote.

Withdraw: A member may withdraw an amendment, motion, unanimous consent request, or other matter in most instances. In committee, unanimous consent is not needed to withdraw if action has not yet been taken on the amendment, motion, unanimous consent request, or other matter.

Words Taken Down: Words said by a member that may violate the rules of the House. If a member demands, the chair rules whether the words are out of order.

Writing, Motions Must Be in: Any committee member may demand that any motion, and by extension, any amendment, be reduced to writing.

Appendix B. House Committee Markups: Administrative Preparation[380]

Markups provide members on a committee an opportunity to change parts of a bill prior to its consideration by the full House. A number of administrative, procedural, and substantive steps must be undertaken in preparation for a markup, and other steps could or should be undertaken. In general, the markup should be strategically planned to minimize controversy, provide members with political dividends, and position the committee for future action.

The information provided here is not comprehensive, nor is every item listed necessarily used in every instance. Rather, this appendix is intended as a guide to tasks that could be undertaken by committee staff in order to prepare for a smoothly run committee markup. Some of the tasks are necessitated by House rules or individual committee rules. Others are a matter of practice. Some of the preparatory work is handled primarily by majority committee staff (such as the administrative tasks), while other tasks are done independently by committee staff of both parties. In addition, committee members' personal staff often prepare specialized packets for their members for use in a committee markup.

The following checklist is generally applicable to full committee markup, although much of it also applies to subcommittee markup.

Informational Preparation

- Compile background material for members on the committee, including a summary of the measure to be marked up and summaries of hearing testimony. Packets also usually include information provided by the subcommittee, including details of subcommittee action.
- Hold briefings for legislative assistants of committee members prior to the committee meeting to review the bill, discuss possible amendments, and provide opportunities for questioning committee staff. These briefings can be held for one party only or both parties together.
- Prepare advocacy material and talking points on possible amendments and the measure to be marked up.

Political Preparation

- Work with "key constituents" and advocacy groups.
- Discuss with the Administration, if desirable, and Senate sponsors.
- Develop a plan to work with the media.

Chair's Preparation

- Meet with chair to review markup vehicle and potential amendments.
- Draft opening statement.
- Draft procedural script and have scripts ready for motions that may be made. (See Appendices C-S.)

[380] This appendix is available as CRS Report 98-168, *House Committee Markup: Preparation*, by Judy Schneider.

- Meet with committee members of chair's party to discuss procedural and political strategy prior to markup.

Procedural Preparation

- Comply with committee rules' notification requirements.
- Compile amendment roster.
- Prepare scripts for possible procedural motions and determine member(s) to make such motions. (See Appendices C-S.)
- Determine member schedules to ensure attendance at markup and identify where members can be reached if their presence is needed in committee. (Each party does this for its own members. Quorum requirements differ among committees, although a majority must be physically present to report a measure from committee.)

Administrative Preparation

- Reserve committee room.
- Set up room, including identifying reserved seating and setting up members' places on the dais.
- Schedule Capitol Police.
- Schedule official reporter.
- Schedule counsel from the Office of Legislative Counsel.
- Notify Administration, especially if a representative is to be present; determine if the representative will be at the witness table or in the audience.
- Duplicate appropriate copies of markup materials for members.
- Distribute markup packets both prior to the markup and in the session. (Some committees have majority staff do this for all members; others provide information to the minority staff so that their staff may distribute markup packets to their own members.)
- Prepare voting sheets.
- Determine staff to be seated on the dais and at the witness table.
- Distribute official notification, as provided in individual committee's rules.

Appendix C. Sample Script for Opening Statements

A quorum being present and the time noticed for the meeting having arrived or having passed, a chair may call the committee (subcommittee) to order. The chair also ensures that the majority of members present are members of the majority party, in the event that the minority should make agenda-setting or other motions.

Chair: A quorum being present, the committee [subcommittee] shall come to order. We are meeting today to consider [bill or resolution number(s) and short or official title(s)].

Chair makes opening statement, subject to any provisions in committee rules.

Chair: I now recognize the ranking minority member for his [her] opening statement.

Ranking minority member makes opening statement, subject to any provisions in committee rules.

Chair: Pursuant to committee rules, other members of the committee [subcommittee] may submit written opening statements for the record.

Committee rules or an agreement between the parties might call for another approach for opening statements, such as allowing the chair and ranking minority member of a subcommittee that considered the legislation also to make opening statements. Committee rules, an agreement, or practice might allow the full-committee chair and ranking minority member to make an opening statement in any subcommittee of which they are ex officio members. Some committees allow all committee or subcommittee members to make opening statements, but limit those statements to less than five minutes.

The next step is likely to be calling up the first measure to be marked up.

Appendix D. Sample Scripts for Calling Up and Reading a Measure

As examined in Procedural Strategy and the Choice of a Markup Vehicle, a chair may call up an introduced measure; a subcommittee-reported version of a measure, also called a committee print; or a staff draft or chairman's mark.

Sample Script for Calling Up a Measure, with Unanimous Consent to Dispense with Reading

Chair: I call up [bill or resolution number]. The bill [resolution] was circulated in advance, pursuant to committee rules. Without objection, the first reading is dispensed with. The clerk shall report the title of the legislation.

Committee clerk reads the number and official title of the legislation.

The measure having been called up and reading dispensed with, debate on it may now begin.

Sample Script for Calling Up a Measure, with Motion to Dispense with Reading

Chair: I call up [bill or resolution number]. The bill [resolution] was circulated in advance, pursuant to committee rules. Without objection, the first reading is dispensed with.

Member: I object.

Chair: Objection is heard.

Another Member: I move that the first reading of the measure be dispensed with.

Chair: The gentleman has moved that the first reading of the measure be dispensed with. The measure was circulated in advance, as required by House and committee rules, so the motion is in order. It is not debatable. All those in favor of the motion, say "aye." (*Listens for response.)* All those opposed, say 'no." (*Listens for response.)* In the opinion of the chair, the "ayes" have it and the motion is agreed to. The clerk shall report the number and official title of the legislation.

A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Committee clerk reads the number and official title of the legislation.

The measure having been called up and reading dispensed with, debate on it may now begin.

Had the motion failed, or had unanimous consent not been obtained when the motion was not in order, the chair would direct the clerk to read the measure, and the clerk would read the measure in full. However, the chair or another member could repeatedly renew the request for unanimous consent during the reading. If unanimous consent was not obtained, the chair would direct the clerk to continue to read the measure. If unanimous consent was obtained, the clerk would discontinue reading the measure, and debate on the measure could begin.

Appendix E. Sample Scripts When Motions Are Made as a Markup Begins

*After a measure has been called up and its reading completed or dispensed with, members may raise various motions seeking to delay or defer the measure's consideration. The precedence of these motions is discussed under "*12. Motions*."*

Chair: The clerk shall report the legislation.

Committee clerk reads the number and official title of the legislation.

Chair: Without objection, reading of the measure shall be dispensed with.

Question of Consideration

Member: I raise a question of consideration.

Chair: The gentlelady raises a question of consideration, which is not debatable. The question is: Does the committee [subcommittee] wish to consider [bill or resolution number]? All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the question of consideration is agreed to.

A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

An affirmative vote on a question of consideration is subject to a motion to reconsider; a negative vote in not.

Motion to Postpone

Member: I move to postpone consideration of [bill or resolution number].

Another Member: I move to table the gentlelady's motion.

A motion to table another motion may be made where the motion to table has precedence over the other motion and where the motion to table is in order. By a member offering and a committee agreeing to a motion to table, the committee [subcommittee] cuts off amendment of and debate on the underlying motion, to the extent either is allowed. If the motion to table is defeated, the underlying motion is considered.

Chair: The motion to table is in order and is not debatable. The question is: Shall the committee [subcommittee] table the motion to postpone offered by the gentlelady? All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the motion to table is agreed to.

A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

There is a motion to postpone indefinitely and thus kill the measure and a motion to postpone to a day certain. A motion to postpone to a day certain has precedence over a motion to postpone indefinitely, and a motion to postpone to a day certain is amendable. Both forms are debatable.

A vote on a motion to postpone to a day certain is subject to a motion to reconsider.

Motion to Commit [Recommit]

Member: I move to commit this bill to the committee's Subcommittee on _____.

Another Member: I move to table the motion.

Chair: The motion to table is in order and is not debatable. The question is: Shall the committee table the motion to commit the bill to the Subcommittee on _____? All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the motion to table is agreed to.

A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

If the motion to table is agreed to, the committee considers the legislation. If the motion to table is defeated, the motion to refer is debatable. Debate is on the motion, not on the merits of the legislation.

Motion to Adjourn

Member: I move to adjourn.

Chair: The motion is not debatable. As many as are in favor of the motion to adjourn, say "aye." *(Listens for response.)* As many as are opposed to the motion to adjourn, say "no." *(Listens for response.)* In the opinion of the chair, the noes have it, and the motion to adjourn is not agreed to.

A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

The motion to adjourn may be made again after business, debate, or action is conducted, but the chair may refuse to entertain the motion if he or she finds it dilatory.

Appendix F. Sample Scripts for Options for Reading a Measure for Amendment

A committee may read a measure for amendment by section or by paragraph. This procedure is the norm. No special action is needed to proceed in this manner. If a committee wishes to read a measure for amendment by another unit than section or paragraph; as open for amendment at any point; or by means of an amendment roster, the committee must agree to do so by unanimous consent. There is no motion available to change the process for reading for amendment.

Once a measure is open for amendment, a chair, or a member acting at the chair's behest, might lay down an amendment in the nature of a substitute. This procedure appears in Appendix G.

Reading for Amendment by Section

Chair: The bill [resolution] is now open for amendment. The clerk shall report [or read] Section 1 of the bill [resolution].

or

Chair: The bill [resolution] is now open for amendment. Without objection, the bill [resolution] shall be considered as read. The clerk shall report [or designate] Section 1.

Committee clerk begins to read Section 1 in its entirety. Unanimous consent is needed to dispense with reading a section, several sections, or all sections of a measure. If unanimous consent is obtained, the clerk would say only, "Section 1."

Chair: Is there an amendment to Section 1?

or

Chair: Is there discussion of Section 1?

Member: Mr. Chairman, I have an amendment.

Chair: The clerk shall report the amendment.

The clerk reads the amendment.

Reading for Amendment by Another Unit, such as Title

Chair: The bill [resolution] is now open for amendment. Without objection, the bill [resolution] shall be open for amendment by title. The clerk shall report [or read] title I of the bill [resolution].

or

Chair: The bill [resolution] is now open for amendment. Without objection, the bill [resolution] shall be open for amendment by title and shall be considered as read. The clerk shall report [or designate] title I.

Unanimous consent is needed for reading by a unit other than section or paragraph.

Committee clerk begins to read title I in its entirety. Unanimous consent is needed to dispense with reading a title, several title, or all titles. If unanimous consent is obtained, the clerk would say only, "Title I."

Chair: Is there an amendment to title I?

or

Chair: Is there discussion of title I?

Member: Madam Chairman, I have an amendment.

Chair: The clerk shall report the amendment.

The clerk reads the amendment.

Reading for Amendment as Open to Amendment at Any Point

Chair: The bill [resolution] is now open for amendment. Without objection, the bill [resolution] shall be considered as read for amendment and be open for amendment at any point.

Unanimous consent is needed to dispense with reading of the measure for amendment and, separately, to open it for amendment at any point.

Chair: Is there an amendment to the bill [resolution]?

or

Chair: Is there discussion of the bill [resolution]?

Member: I have an amendment to section 7.

Chair: The clerk shall report the amendment.

The clerk reads the amendment.

Reading for Amendment and Using an Amendment Roster

Chair: Without objection, the committee [subcommittee] today shall use an amendment roster.

Ranking Minority Member: Reserving the right to object, and I will not object, would the chair please explain our agreement concerning the amendment roster. I yield to the chair.

Unanimous consent is needed to use an amendment roster.

Chair: I thank the gentleman and all of the committee members for their agreeing to the use of an amendment roster. We have agreed....

Ranking Minority Member: I thank the chair for this explanation and withdraw my reservation.

Chair: Without objection, the bill [resolution] shall be considered as read for amendment and be open for amendment at any point. An amendment by the gentleman [gentlelady] from [state] is listed first on the roster.

Presumably the agreement to use an amendment roster will include agreement to dispense with the reading of the measure for amendment and to open the measure for amendment at any point.

Member: I have an amendment to section 7.

Chair: The clerk shall report the amendment.

The clerk reads the amendment.

Appendix G. Sample Script for Offering an Amendment in the Nature of a Substitute

Chair: The bill is now open for amendment. The clerk shall report [or read] Section 1 of the bill.

Committee clerk begins to read Section 1 in its entirety. Presumably, the clerk would begin reading Section 1 and then would be interrupted by the chair asking unanimous consent to dispense with the section's reading.

Chair: I have an amendment in the nature of a substitute. The clerk shall report the amendment.

Another majority-party member could offer the amendment in the nature of a substitute.

Committee clerk begins reading the amendment in the nature of a substitute.

Chair: Without objection, the amendment in the nature of a substitute shall be considered as read for purpose of amendment.

Ranking Minority Member: Madam Chairman, reserving the right to object. I wish to confirm with you privately aspects of the amendment process we will use today. Once we have discussed that, I would suggest you again ask unanimous consent. I would not expect that there would be objection from this side. I object.

Chair, ranking minority member, and other members might privately discuss whatever issues concern them while the clerk continues to read. The discussion could also take place publicly under a reservation, with the ranking minority member, or another member, having reserved the right to object. Once the discussion is completed and the reservation has been withdrawn, the chair might renew the request for unanimous consent to dispense with the reading.

Chair: Without objection, the amendment in the nature of a substitute shall be considered as read for purpose of amendment.

If objection is heard, the chair directs the clerk to continue reading. The chair or another member may renew the unanimous consent request that reading of the amendment be dispensed with. However, there is no motion available to dispense with the reading of an amendment, including an amendment in the nature of a substitute.

If the amendment in the nature of a substitute will be base text for purposes of amendment, then...

Chair: Without objection, the amendment in the nature of a substitute shall be considered base text for purpose of amendment.

An amendment in the nature of a substitute is open for amendment at any point. However, if an amendment in the nature of a substitute is made base text for the purpose of amendment, it is read by section, unless another procedure is agreed to by unanimous consent.

If an amendment in the nature of a substitute is not base text, then it occupies the first branch of the amendment tree—the amendment. Members of the committee could offer a perfecting amendment to the amendment in the nature of a substitute, a substitute amendment, and a perfecting amendment to the substitute amendment.

If the amendment in the nature of a substitute is made base text, then committee members could fill the branches of the amendment tree by offering an amendment (to the amendment in the nature of a substitute made base text), a perfecting amendment to that

amendment, a substitute amendment, and a perfecting amendment to the substitute amendment.

Member: Reserving the right to object, is the amendment in the nature of a substitute exactly the same amendment in the nature of a substitute that was noticed in compliance with committee rules, or is it an amendment in the nature of a substitute that is in any way different from what was noticed?

Some committees have notice requirements in their rules for amendments in the nature of a substitute. Most committees do not have such a rule, but House Rule XI, clause 2(g)(4) requires an amendment in the nature of a substitute to be publicly available for 24 hours prior to a markup meeting.

Chair: The amendment in the nature of a substitute offered today is exactly the same amendment that was noticed earlier to committee members in compliance with committee and House rules.

Member: I withdraw my reservation.

Chair: Is there discussion of the amendment in the nature of a substitute made base text?

Appendix H. Sample Scripts for Offering an Amendment and Disposing of a Point of Order

Chair: The bill is now open for amendment. The clerk shall report [or read] Section 1 of the bill [resolution].

Committee clerk reads Section 1 in its entirety.

Chair: Is there an amendment to Section 1?

Member: I have an amendment.

Chair: The clerk shall report the amendment.

Clerk begins to read the amendment in its entirety.

Member: I ask unanimous consent that further reading of the amendment be dispensed with.

Amendments must be read in full. Their reading may be dispensed with by unanimous consent. There is no motion to dispense with reading. A chair might ask an amendment's proponent to withhold his or her request or not to speak on the amendment to allow time for committee staff to distribute the amendment to each member.

Chair: Without objection. The gentlelady is recognized for five minutes on her amendment.

Member speaks in behalf of her amendment.

Chair: The time of the gentlelady has expired. Is there further discussion?

The chair recognizes for five minutes another member seeking to discuss the amendment, looking by custom first to members of the party other than that of the amendment's sponsor. Other committee members may subsequently be recognized for five minutes each to debate or to offer an amendment, in order under the rules of the House, to the pending amendment. The chair generally alternates recognition between the parties and might proceed in order of seniority or in order that recognition was sought.

Member: I have an amendment to the amendment.

Chair: The clerk shall report [or read] the amendment.

Clerk begins to read the amendment in its entirety.

Member: I ask unanimous consent that further reading of the amendment be dispensed with.

Another Member: I object.

Chair: Objection is heard. The clerk shall continue to read.

The clerk reads the amendment in its entirety.

A member anticipating making or reserving a point of order might object to dispensing with the reading of an amendment in order to have more time to consider whether to proceed.

Reservation of Point of Order

A point of order must be made or reserved after reading is completed or dispensed with and before debate begins.

Clerk finishes reading…

Member: I reserve a point of order.

Chair: The gentlelady reserves a point of order. The gentleman who offered the amendment is recognized for five minutes on his amendment.

Member speaks in behalf of his amendment.

Chair: The time of the gentleman has expired. Is there further discussion?

Another Member: Mr. Chairman, I'd like to be recognized on the amendment.

Chair: The gentleman is recognized for five minutes.

The chair may continue to recognize members to debate. The chair decides when he or she will require the member who reserved the point of order to withdraw the reservation or make the point of order. As debate continues, the chair might ask the member with the reservation, "Does the gentlelady continue her reservation?"

However, another member might say, "I demand regular order." The chair must then inform the member who has reserved a point of order to immediately either withdraw the reservation or make the point of order. If the member withdraws the reservation, debate on the amendment continues. If the member makes the point of order, the chair rules on it.

If the member makes the point of order and the chair entertains debate on it, a member might say, "I demand regular order." The chair must then make his or her ruling.

The chair must rule on a point of order before putting the question on agreeing to the amendment against which the point of order was reserved. An amendment to an amendment against which a point of order has been reserved may also not be offered until the point of order has been disposed of.

Chair: Does the gentlelady wish to withdraw her reservation or does she make a point of order?

Member: I insist on my point of order.

Chair: The gentlelady is recognized on her point of order.

Member: I make a point of order that (*specifically citing one or more House rules or precedents or committee rules and explaining its applicability to the amendment) ...* .

Chair: Does the sponsor of the amendment wish to be heard on the gentlelady's point of order?

Member: I do.

Chair: The gentleman is recognized.

Member: Mr. Chairman ... (*arguing against the interpretation or applicability of the rule).*

It is within the chair's discretion whether and for how long to entertain discussion of a point of order. If a chair allows a member making a point of order to discuss it, as a matter of comity the chair should allow the member who offered the amendment an opportunity to respond.

Chair: Does any other member wish to be heard on the point of order? If not, the chair is prepared to rule. The chair sustains the gentlelady's point of order. The amendment violates ... (*explaining the reason for the ruling, which might be different from the arguments offered by the members who debated the point of order).*

Appeal of the Ruling of the Chair

Member: I respectfully appeal the ruling of the chair.

Another Member: I move to table the gentleman's appeal.

An appeal of a chair's ruling now occurs regularly but is still neither routine nor commonplace.

A majority member might be expected to come to the aid of a chair by offering a motion to table an appeal of a chair's ruling. The appeal would otherwise be debatable. The motion to table is not debatable, and, if agreed to, is a final adverse disposition of the underlying proposition.

Chair: The motion to table is not debatable. The question is: Shall the committee [subcommittee] table the gentleman's appeal? All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the motion to table is agreed to. The gentleman's amendment is not in order.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: Is there any further discussion of the gentlelady's amendment?

Appendix I. Sample Scripts for Selected Motions and Requests in the Amendment Process

Dispensing with Reading; Recognition for Debate

Chair: The bill [resolution] is now open for amendment. The clerk shall read Section 1 of the bill [resolution].

Committee clerk reads Section 1 in its entirety.

Unless the committee [subcommittee] agrees by unanimous consent to another process, a measure being marked up is open for amendment by section (or, if so organized, by paragraph), first Section 1, then Section 2, and so on. Unless the committee dispenses by unanimous consent with the reading of a section, several sections, or the whole measure for amendment, each section must be read in full.

Chair: Is there discussion of Section 1?

Member: I have an amendment.

Chair: The clerk shall report the amendment.

Clerk begins to read the amendment in its entirety.

Member: I ask unanimous consent that further reading of the amendment be dispensed with.

Chair: Without objection. The gentlelady is recognized for five minutes on her amendment.

Member: Thank you, Mr. Chairman. My amendment.... I yield back.

Chair: The time of the gentlelady has expired. Is there further discussion?

The chair recognizes for five minutes another member seeking to discuss the amendment, looking by custom first to members of the party other than that of the amendment's sponsor. Other committee members may subsequently be recognized to debate or to offer an amendment, in order under the rules of the House, to the pending amendment, with the chair generally alternating recognition between the parties and possibly proceeding in order of seniority or in the order that recognition was sought..

Member: Mr. Chairman, I'd like to speak on the amendment.

Chair: The gentleman is recognized for five minutes.

Yielding

Member: I will make an inquiry of the amendment's sponsor and then yield to her to respond and she may consume as much of my time as she needs to respond. My question is.... I yield to the gentlelady.

Member (sponsoring amendment): I thank the gentleman. Let me respond to his question….

Chair: The gentleman's time has expired. Is there further discussion?

To assist a colleague—either the amendment's proponent or a member with strong or persuasive argument—a member may seek recognition by the chair for five minutes and yield to another member, but may not for a specific time. The time consumed by the

member yielded to is tolled against the five minutes. The member recognized by the chair remains the "owner" of the five minutes, and it is that member's five minutes that expire.

Perfecting Amendment; Motion Reduced to Writing

Another Member: Mr. Chairman, I have an amendment to the amendment.

Chair: The clerk shall report the amendment.

Sponsor of First-Degree Amendment: I demand the gentleman's motion be reduced to writing.

A member may demand that any motion, including the motion to amend, be reduced to writing.

Chair: The gentleman shall write out his amendment. Would staff on the dais please carry the amendment to the clerk and ensure copies are provided to the members? When ready, the clerk shall report the amendment.

Clerk reads the amendment in its entirety, unless unanimous consent is obtained to dispense with the reading.

Chair: Do all members now have a copy of the amendment? The gentleman is recognized for five minutes on his amendment.

Member speaks in behalf of his amendment.

Chair: The time of the gentleman has expired. Is there further discussion?

Another Member: Mr. Chairman, I'm opposed to this amendment.

Chair: The gentlelady is recognized for five minutes.

Member: Thank you, Mr. Chairman. This amendment…. And, so, I would urge my colleagues to vote against this amendment.

Member Sponsoring Amendment: Would the gentlelady yield?

Member Opposing Amendment: I yield.

Member Sponsoring Amendment: The gentlelady indicated that…. How would the gentlelady respond to that point?

Member Opposing Amendment: Reclaiming my time, I have made the point that….

Member Sponsoring Amendment: Would the gentlelady yield further?

Member Opposing Amendment: I yield.

Member Sponsoring Amendment: I think the gentlelady's argument is misguided…

Member Opposing Amendment: Reclaiming my time….

Member Sponsoring Amendment: Would the gentlelady yield further?

Member Opposing Amendment: I would not, and I yield back the balance of my time.

Chair: The time of the gentlelady has expired.

Unanimous Consent for Additional Time to Speak

Member: Mr. Chairman, may I be recognized to speak on the amendment?

Chair: The gentleman is recognized for five minutes.

Member: Thank you, Mr. Chairman. I thought about the amendment in this way….

Chair: The time of the gentleman has expired.

Member: I ask unanimous consent to speak for one additional minute.

A member could object or reserve the right to object.

Chair: Without objection.

Member: *[speaks for one additional minute]* ... I yield back.

Chair: The gentleman's time has expired.

Another Member: Mr. Chairman, I'd like to speak on the amendment.

Chair: The gentlelady is recognized for five minutes.

Member: I just want to indicate my support for the amendment, for the reasons just explained by the gentleman. Since he has been so eloquent, I now yield him the balance of my time so that he may continue to address the important reasons for supporting this amendment. I yield to the gentleman.

First Member: I thank the gentlelady. I was explaining this aspect of the amendment as my time expired….

Other committee members may be recognized to debate, or to offer an amendment allowed by the rules and precedents of the House to the pending amendment, with the chair generally alternating between the parties. The chair recognizes members for five minutes each.

Substitute Amendment; Insertion in Record

Chair: Is there any further discussion of the gentlelady's amendment?

Member: I have an amendment to the gentlelady's amendment.

Chair: The clerk shall report the amendment.

Clerk begins to read the amendment in its entirety.

Member: I ask unanimous consent that further reading of the amendment be dispensed with.

Chair: Without objection. The gentleman is recognized for five minutes on his amendment.

Member: My amendment.... Mr. Chairman, before yielding back, I ask unanimous consent that the three letters from my constituents that I referenced be inserted in the record.

A member could object or could reserve the right to object.

Chair: Without objection.

Member: I yield back.

Chair: The time of the gentleman has expired. Is there further discussion?

Other committee members may be recognized for five minutes each to or to offer an amendment on the remaining open branch of the amendment tree, with the chair generally alternating between the parties.

Voice Votes on Pending Amendments

Chair: Is there further discussion? Hearing none, the question is on the gentleman's perfecting amendment to the gentlelady's amendment. All those in favor, say "aye."

(Listens for response.) All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the noes have it, and the gentleman's amendment to the gentlelady's amendment is not agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: Is there further discussion? Hearing none, the question is now on the gentleman's substitute amendment to the gentlelady's amendment. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the gentleman's amendment to the gentlelady's amendment is agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: The vote now occurs on the gentlelady's amendment, as amended. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and gentlelady's amendment as amended is agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Dispensing with Further Reading of Sections

Chair: Is there further discussion of Section 1? Hearing none, the clerk shall read Section 2.

Committee clerk reads Section 2 in its entirety.

Chair: Is there discussion of Section 2? Hearing none, the clerk shall read Section 3.

Clerk begins to read Section 3.

Chair: Understanding that there are no amendments to Sections 3 through 5, I ask unanimous consent that these sections be considered as read and [open to amendment /closed to further amendment].

Member: Reserving the right to object, and I will not object, I wish to express my strong support for the language of Section 3.... I withdraw my reservation.

Chair: The gentleman withdraws his reservation. Without objection, Sections 3 through 5 shall be considered as read and closed to further amendment. The clerk shall report Section 6.

Clerk reads Section 6.

Withdrawing an Amendment

Chair: Is there discussion of Section 6?

Member: I have an amendment.

Chair: The clerk shall report the amendment.

Clerk begins to read.

Member: I ask unanimous consent to dispense with further reading of the amendment.

Chair: Without objection. The gentlelady is recognized for five minutes.

Member: My amendment…. Knowing of the chair's and ranking minority member's interest in this matter, I will withdraw my amendment and work with them on a related amendment that might be offered in the markup scheduled next week on another measure. I withdraw my amendment.

Chair: I thank the gentlelady. Since there was no action on the amendment, the member has the right to withdraw her amendment. The amendment has been withdrawn. Is there further discussion of Section 6?

The amendment process continues through the final section of the bill [resolution].

Appendix J. Sample Scripts for Motion to Close Debate; Parliamentary Inquiry; and Point of Order of Absence of Quorum

Member: I move to close debate on Section 5 and all amendments and motions relating thereto in 10 minutes.

Another Member: Parliamentary inquiry.

A member may make a parliamentary inquiry if no other member has been recognized or if a member who was recognized yields to the member specifically to make a parliamentary inquiry. A parliamentary inquiry might concern parliamentary procedure, the status of the committee's [subcommittee's] agenda, or similar query. A chair will not respond to a hypothetical question, but a member may be able to word a query to avoid that problem. Instead of, for example, asking, "What might happen next?", a member might ask, "Would it be in order for me to offer either a perfecting or substitute amendment to the gentlelady's amendment at this time?" A chair will also not respond to a query regarding the substance, meaning, implications, or similar queries about an amendment, but will respond that such a concern should be considered through debate.

Chair: The gentleman will state his parliamentary inquiry.

Member: If the committee [subcommittee] agrees to the gentleman's motion, will further amendments to Section 5 be precluded?

Chair: Further amendments will not be precluded.

Member: A further parliamentary inquiry, Madam Chairman. Do I understand that, if the motion is agreed to, any further amendments would be decided without debate?

Chair: The gentleman is correct.

Another Member: Madam Chairman, a further parliamentary inquiry, would the proponent of the motion be willing to modify it to close debate in 20 minutes? If so, I know that I would be willing to support his motion.

Member: Madam Chairman, I withdraw my motion and move to close debate in 20 minutes.

Chair: The question is on the motion to close debate in 20 minutes. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the motion is agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Debate continues.

Chair: Twenty minutes have now passed. Pursuant to previous action, the question is on the gentleman's amendment to the gentlelady's amendment. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the noes have it, and the gentleman's amendment to the gentlelady's amendment is not agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member

demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: The question is now on the gentlelady's amendment. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the gentlelady's amendment is agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: Is there further discussion of Section 5? Hearing none, the clerk shall report Section 6.

Committee clerk reads Section 6 in its entirety, unless reading has been dispensed with.

Chair: Is there discussion of Section 6?

Member: I have an amendment.

Chair: The clerk shall report the amendment.

Clerk begins to read the amendment in its entirety.

Member: I ask unanimous consent that further reading of the amendment be dispensed with.

Chair: Without objection. The gentlelady is recognized for five minutes on her amendment.

Member speaks in behalf of her amendment.

Chair: The time of the gentlelady has expired. Is there further discussion?

The chair recognizes another member for five minutes of debate, looking by custom first to members of the party other than that of the amendment's sponsor. Other committee members may subsequently be recognized to debate or to offer an amendment, in order under the rules of the House, to the pending amendment, with the chair generally alternating recognition between the parties and in order of seniority or in the order that recognition is sought.

Point of Order That a Quorum Is Not Present

Member: I make a point of order that a quorum is not present.

A quorum is required during a markup, but it is presumed to exist unless its absence is noted. A quorum must be reestablished after a recess.

A member may make a point of order when no other member has been recognized or when the member recognized yields to the member specifically to make a point of order.

Chair: The chair shall count for a quorum. *[Chair counts members present.]* The gentleman is correct that a quorum is not present. The clerk shall call the roll.

The chair's count is not subject to appeal.

Clerk calls the roll.

Chair: A quorum is present. The committee [subcommittee] shall resume its business. Is there further discussion?

Appendix K. Sample Scripts for Voting on Amendments

Chair: If there is no further discussion, the question is on agreeing to the amendment offered by the gentleman [gentlelady]. Those in favor, signify by saying "aye." (*Listens for response.)* Those opposed, signify by saying "no." (*Listens for response.)* In the opinion of the chair, the ayes [noes] have it, and the amendment is [is not] agreed to.

Member: I demand a division vote.

A committee member may demand a division vote before the result of the voice vote is announced and the chair has moved to the next item of business. Alternately, a member could demand a recorded vote, which must be supported by a sufficient second.

Chair: A division vote is demanded on the question of agreeing to the amendment offered by the gentleman [gentlelady]. Those in favor, signify by raising their hands. (*Chair counts members with raised hands.)* Those opposed, signify by raising their hands. (*Chair counts members with raised hands.)* On the division vote there were (*number)* ayes and *(number)* noes. The ayes [noes] have it and the amendment is [is not] agreed to.

The chair's count may not be appealed. A member disagreeing with the outcome of a division vote may ask for a recorded vote.

Member: I demand a recorded vote.

A member may ask for a recorded vote before the chair announces the result of a voice vote and moves to the next item of business, or a member may ask for a recorded vote even if a division vote has been requested so long as the request is made before the chair begins to count.

Chair: A recorded vote is requested on the question of agreeing to the amendment offered by the gentleman [gentlelady]. Is there a sufficient second?

The chair counts for members supporting the request for a recorded vote. In the absence of a committee rule stating what constitutes a sufficient second, one-fifth of those present. The chair's count of members in support of a recorded vote may not be appealed.

Chair: There being a sufficient second, the question occurs on agreeing to the amendment offered by the gentleman [gentlelady]. The clerk shall call the roll.

Clerk calls the roll orally, first calling every committee member's name, first the majority members and then the minority members. The clerk then calls the roll again, calling only the names of members who did not respond, first the majority members and then the minority members. The clerk repeats aloud the vote of each member as the clerk records the member's response. A chair normally establishes a practice of whether he or she wishes his or her name to be called first or last. If last, the clerk could be instructed to call the chair's name only after calling the roll the second time or only when signaled by the chair that the chair is prepared to vote.

Chair: Are there other members who wish to vote?

Clerk repeats the names and records the votes of those members responding.

Chair: Are there members who wish to change their vote?

Clerk repeats the names and records the votes of those members responding.

Member: Madam Chairman, how am I recorded?

Chair: How is the gentleman recorded?

Clerk: The member is not recorded.

Member: I vote "aye."

Clerk: [Member's name] votes "aye."

Chair: Is there any other member wishing to vote or wishing to change his or her vote?

Chair: If not, the chair votes "aye."

Clerk completes recording and tabulation of votes, and signals the chair that the tabulation is ready. The chair determines when to ask the clerk to report the vote. The chair can decide how long to hold the vote open to allow additional members to arrive. The chair might also wait to cast or change his or her own vote to vote with the majority, even if it is not the chair's position. If the majority position is not the chair's position, his or her vote with the majority would qualify the chair to move to reconsider the vote.

Chair: The clerk shall report the vote.

Clerk reads the total ayes and total noes. The clerk should wait until signaled by the chair to report the tally to prevent a miscue and to ensure the chair's control of the markup.

Chair: On this vote there were *[number]* ayes and *[number]* noes. The amendment is [is not] agreed to.

Member: I move to reconsider the vote by which the gentlelady's amendment was agreed to [not agreed to].

To move to reconsider a recorded vote, the member must have voted on the prevailing side.

Chair: Without objection, the motion to reconsider is laid on the table.

If a member arrives after a vote has been taken, the member could ask unanimous consent to indicate how he or she would have voted had he or she been present.

Motion to Reconsider

If a vote was close, a member might seek a re-vote by first offering a motion to reconsider. If the motion is successful, a second vote would be taken on the underlying proposition. However, a member is also likely to move to table the motion to reconsider.

Member: I move to reconsider the vote.

Another Member: I move to lay the motion on the table.

Chair: The gentleman [gentlelady] moves to table the motion to reconsider the vote on agreeing [not agreeing] to the gentleman's [gentlelady's] amendment. A motion to table is not debatable. Those in favor, signify by saying "aye." (*Listens for response.)* Those opposed, signify by saying "no." (*Listens for response.)* In the opinion of the chair, the ayes [noes] have it, and the motion is [is not] agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Appendix L. Sample Script for Parliamentary Inquiry on Voting Order on Amendments, with Votes on Amendments to an Amendment in the Nature of a Substitute Made Base Text

Member: I have a parliamentary inquiry.

Chair: The member shall state her parliamentary inquiry.

Member: What is the order of voting on the amendment and the amendment to it?

Chair: If no further amendments are offered, the first vote shall occur on the gentleman's perfecting amendment to the gentlelady's amendment. The next vote shall be on the gentlelady's amendment, as amended if amended.

Member: A further parliamentary inquiry. Would other amendments be in order at this time?

Chair: Since the amendment in the nature of a substitute has been made base text for the purpose of amendment, a member could offer a substitute amendment for the gentlelady's amendment. If such an amendment is offered, another member could offer a perfecting amendment to it. After a vote occurs on an amendment, that branch of the amendment tree is vacant. Another amendment occupying that branch of the tree would then be in order, so long as it did not violate a rule or precedent, such as the precedent related to amending previously amended text.

Member: I thank the chair.

Chair: Is there further discussion? Hearing none, the question is on the gentleman's amendment to the gentlelady's amendment. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the gentleman's amendment to the gentlelady's amendment is agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: Is there further discussion of the gentlelady's amendment?

Another Member: I have a substitute for the gentlelady's amendment as amended.

Chair: The clerk shall report the amendment.

Clerk begins to read amendment.

Member Sponsoring Amendment: I ask to dispense with further reading of the amendment.

Member: I object.

Chair: Objection is heard. The clerk shall continue to read.

Clerk completes reading in full of amendment.

Member: I reserve a point of order.

Chair: The gentlelady reserves a point of order. The gentleman is recognized for five minutes on his amendment.

Member Sponsoring Amendment: My amendment….

Chair: The time of the gentleman has expired. Does the gentlelady wish to make a point of order.

Member: I withdraw my reservation, Mr. Chairman.

Chair: The reservation is withdrawn. Is there further discussion of the gentleman's amendment?

Member: I seek recognition.

Members do not need to "strike the last word" in committee to obtain five minutes to speak, but many members do so.

Chair: The gentlelady is recognized for five minutes.

Member: I oppose this substitute for my amendment, even as my amendment has been amended….

Chair: The gentlelady's time has expired. Is there further discussion?

Chair continues to recognize members to debate or to offer amendments.

Chair: Is there further discussion? Hearing none, the question is now on the substitute for the gentlelady's amendment, as amended. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the noes have it, and the gentleman's amendment is not agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: Is there further discussion? Hearing none, the question is now on the gentlelady's amendment as amended. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the gentlelady's amendment as amended is agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: Is there further discussion of this section of the amendment in the nature of a substitute made base text?

Appendix M. Sample Scripts for Division of a Question: Amendments and En Bloc Amendments

Demand for a Division of the Question: An Amendment

Member: I demand a division of the question. Paragraphs (a) and (b) of the gentlelady's amendment constitute two distinct propositions. I demand that they be divided.

If an amendment contains two or more distinct propositions, a member may demand a division of the question—a separate vote on one or more of the distinct propositions. An amendment to strike and insert may not be divided. The chair rules on divisibility.

Chair: The gentleman is correct that paragraphs (a) and (b) constitute two distinct propositions. The question shall be divided. Is there further discussion? Hearing none, the question is on adopting paragraph (a) of the gentlelady's amendment. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and paragraph (a) of the gentlelady's amendment is agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: Is there further discussion of paragraph (b) of the gentlelady's amendment? Hearing none, the question now occurs on adopting paragraph (b). All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and paragraph (b) of the gentlelady's amendment is agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: Is there further discussion of Section 2?

Demand for Division of the Question: En Bloc Amendments

Member: I have an amendment to Section 2 and two other amendments to Sections 4 and 7. I ask unanimous consent to offer these amendments en bloc.

Another Member: Reserving the right to object, could the chair identify what are the three amendments the gentlelady asks to consider en bloc?

Chair: They are the Doe amendments numbered 1, 2, and 3.

Member: I thank the chair and withdraw my reservation.

Chair: Without objection, the clerk shall report the amendments to be offered en bloc.

Clerk begins to read the amendment in its entirety.

Member: I ask unanimous consent that further reading of the amendments be dispensed with.

Chair: Without objection, reading of the en bloc amendments is dispensed with. The gentlelady is recognized for five minutes on her en bloc amendments.

Member speaks in behalf of her amendment.

Chair: The time of the gentlelady has expired. Is there further discussion?

The chair recognizes for five minutes another member seeking to debate, looking by custom first to members of the party other than that of the amendment's sponsor.

Chair: Is there further discussion? Hearing none, the question is on the gentlelady's en bloc amendments.

Member: I demand a division of the question. I demand that the question be divided so that the committee [subcommittee] may vote separately on the third of the en bloc amendments.

Unanimous consent to consider amendments en bloc does not prevent a member from demanding a division of the question on one, some, or all of the amendments.

Chair: The question shall be divided. Is there further discussion? Hearing none, the question is on adopting en bloc the first two of the gentlelady's amendments. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the first and second of the gentlelady's amendments en bloc are agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: Is there further discussion of the third of the gentlelady's amendments?

Member: I have an amendment to the gentlelady's third amendment.

Chair: The clerk shall report the amendment.

Clerk begins to read the amendment.

Member Sponsoring Amendment: I ask unanimous consent to dispense with the reading.

Chair: Without objection.

Another Member: I reserve a point of order.

Chair: The point of order is reserved. The gentleman is recognized for five minutes on his amendment.

Member discusses his amendment.

Chair: The time of the gentleman has expired. Is there further discussion?

Third Member: I seek time to speak in opposition to the amendment.

Chair: The gentleman is recognized for five minutes.

Third Member: I oppose this amendment….

The chair recognizes for five minutes members seeking to debate, looking by custom first to members of the party other than that of the amendment's sponsor.

Chair: Does the gentlelady insist on her point of order?

Member: I withdraw the reservation.

Chair: The reservation is withdrawn. Is there further discussion? Hearing none, the question now occurs on the gentleman's amendment to the gentlelady's amendment. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for*

response.) In the opinion of the chair, the noes have it, and the gentleman's amendment is not agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Chair: Is there further discussion? Hearing none, the question now occurs on adopting third of the gentlelady's amendments. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it, and the gentlelady's amendment is agreed to.

A member may call for a division vote or recorded vote, or a division vote and a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Appendix N. Sample Scripts for Postponing a Recorded Vote; Calling a Recess

Postponing a Recorded Vote

Member: I demand a recorded vote.

A member may ask for a recorded vote after the chair has taken a voice vote. The member must ask before the chair has announced the result of the voice vote and moved to other business, or the member may ask for a recorded vote even if a division vote has been requested but before the chair begins to count.

Chair: A recorded vote is requested on the question of agreeing to the amendment offered by the gentleman [gentlelady]. Is there a sufficient second?

The chair counts for members supporting the request for a recorded vote. In the absence of a committee rule stating what constitutes a sufficient second, one-fifth of those present may be required to support a request for a recorded vote. The chair's count of members in support of a recorded vote may not be appealed.

Chair: There being a sufficient second, a recorded vote is ordered. Pursuant to Committee Rule *[number]*, further proceedings on the amendment shall be postponed.

Rule XI, clause 2(h)(4) authorizes committees to adopt a committee rule allowing the chair to postpone further proceedings when a recorded vote is ordered "on the question of approving a measure or matter or on adopting an amendment[.]"

Calling a Recess

Chair: The chair has been notified that there will be a series of votes occurring on the floor. We should hear the bells momentarily. The committee [subcommittee] shall stand in recess, subject to the call of the chair. I request that members return within 10 minutes after the last vote is completed so that the markup may proceed. Committee members should be on notice that we will take the recorded vote that has been ordered, soon after we reconvene.

Later, when the committee reconvenes and is prepared to take the recorded vote...

Resuming the Markup Meeting

Chair: The committee [subcommittee] shall come to order, a quorum being present. Before recessing so that members could vote on the floor, the committee [subcommittee] had postponed further proceedings on the gentleman's [gentlelady's] amendment. The question now occurs on agreeing to the amendment offered by the gentleman [gentlelady].

or

Member: Madam Chairman, I make a point of order that a quorum is not present.

Chair: The gentlelady makes a point of order that a quorum is not present. The chair shall count for a quorum. *(The chair counts.)* A quorum is present.

The chair's count for a quorum may not be challenged, such as by an appeal of the chair's determination.

Chair: The question now occurs on agreeing to the amendment offered by the gentleman [gentlelady], on which a recorded vote was ordered. The clerk shall call the roll.

Clerk calls the roll orally, first calling every committee member's name, first the majority members and then the minority members. The clerk then calls the roll again, calling only the names of members who did not respond, first the majority members and then the minority members. The clerk repeats aloud the vote of each member as the clerk records the member's response. A chair normally establishes a practice of whether he or she wishes his or her name to be called first or last. If last, the clerk could be instructed to call the chair's name only after calling the roll the second time or only when signaled by the chair that the chair is prepared to vote.

Chair: Are there other members who wish to vote?

Clerk repeats the names and records the votes of those members responding.

Chair: Are there members who wish to change their vote?

Chair: If not, the chair votes "no."

Clerk completes recording and tabulation of votes, and signals the chair that the tabulation is ready.

Chair: The clerk shall report the vote.

Clerk reads the total ayes and total noes.

Chair: On this vote there were *[number]* ayes and *[number]* noes. The amendment is [is not] agreed to.

Appendix O. Sample Script for Subcommittee Reporting

Chair: Hearing no further amendments, the question is on agreeing to the bill [resolution], [as amended if amended]. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." (*Listens for response.)* In the opinion of the chair, the ayes have it and the bill [resolution][as amended if amended] is agreed to. Without objection, the motion to reconsider is laid on the table.

A member may request a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may also demand a vote on the motion to reconsider if he or she voted on the prevailing side.

Chair: I move that the bill [as amended if amended] be reported favorably to the full committee. All those in favor, say "aye." All those opposed, say "no." In the opinion of the chair, the ayes have it and the motion is agreed to.

A member may request a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may also demand a vote on the motion to reconsider if he or she voted on the prevailing side.

Ranking Minority Member: Mr. Chairman, a parliamentary inquiry, in what form will the measure be reported to the full committee?

Chair: The chair of the full committee in this Congress has asked subcommittees to order committee prints to be prepared, showing amendments agreed to in subcommittee [or to provide a letter explaining recommended changes or another way used in the committee of conveying the outcome of the subcommittee markup to the full committee].

Ranking Minority Member: And will there be any accompanying subcommittee report?

Chair: There will not be, under committee rules and by the chair's discretion.

Ranking Minority Member: I thank the chair.

Chair: The subcommittee is adjourned.

Appendix P. Sample Script for Reporting a Measure with or without Amendments, or with an Amendment in the Nature of a Substitute Considered as Base Text

If the committee has already agreed by unanimous consent to make an amendment in the nature of a substitute base text, it has already replaced the text of the measure or draft, and proceeds to a vote to approve the measure as amended.

Chair: Hearing no further amendments, the question is on agreeing to the bill, [as amended if amended]. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." (*Listens for response.)* In the opinion of the chair, the ayes have it and the bill [as amended if amended] is agreed to. Without objection, the motion to reconsider is laid on the table.

A member may request a division vote or recorded vote or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side.

Chair: I move that the bill as amended be reported favorably to the House. All those in favor, say "aye." *(Listens for response.)* All those opposed, say "no." *(Listens for response.)* In the opinion of the chair, the ayes have it and the motion is agreed to.

A member may request a division vote or recorded vote or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side, although the majority often offers the motion to reconsider and then a motion to table to formally conclude a committee's consideration of a measure.

Majority Party Member: I move to reconsider the motion to report the measure.

Another Majority Party Member: I move to lay the motion to reconsider on the table.

or

Chair: Without objection, the motion to reconsider is laid on the table.

If there was objection, the chair would put the question on the motion to table. A member may then call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Ranking Minority Member (or Another Member): Pursuant to House Rule XI, clause 2(l) and Committee Rule (*number)*, I ask that committee members have (*number of days provided in committee rules)* to file with the clerk of the committee supplemental, additional, minority, and dissenting views.

Chair: Members shall have *(number of days)* to submit views.

Another Member: A parliamentary inquiry, Mr. Chairman. Would the chair please clarify what is the deadline for the submission of views? Does today count as the first day?

Chair: Today counts as the first day, tomorrow as the second day, and so on.

Member: I thank the chair.

Majority Party Member: Pursuant to Rule XXII, clause 1 and Committee Rule *(number)*, I move that the committee authorize the chair to offer such motions as may be necessary in the House to go to conference with the Senate on the bill just ordered reported by this committee or on a similar Senate bill.

Rules XI, clause 2(a)(3) authorizes committees to adopt a rule authorizing their chair to make this motion in the House.

Chair: Without objection. Also without objection, the staff is authorized to make any technical and conforming changes. There being no further business, the committee stands adjourned.

Appendix Q. Sample Script for Reporting a Measure with an Amendment in the Nature of a Substitute, Not Base Text

Chair: Hearing no further amendments, the question is on agreeing to the amendment in the nature of a substitute [as amended if amended]. All those in favor, say "aye." (*Listens for response.)* All those opposed, say "no." (*Listens for response.)* In the opinion of the chair, the ayes have it and the amendment in the nature of a substitute [as amended if amended] is agreed to.

A member may request a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side.

Chair: The question now occurs on adopting of the bill as amended. All those in favor, say "aye." (*Listens for response.)* All those opposed, say "no."(*Listens for response.)* In the opinion of the chair, the ayes have it and the bill as amended is agreed to. Without objection, the motion to reconsider is laid on the table.

A division vote or recorded, or a division vote and then a recorded vote, may occur. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side.

Chair: I move that the bill as amended be reported favorably to the House. All those in favor, say "aye." (*Listens for response.)* All those opposed, say "no." (*Listens for response.)* In the opinion of the chair, the ayes have it and the motion is agreed to.

A member may call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side, although the majority often offers the motion to reconsider and then a motion to table to formally conclude a committee's consideration of a measure.

Majority Party Member: I move to reconsider the motion to report the measure.

Another Majority Party Member: I move to lay the motion to reconsider on the table.

or

Chair: Without objection, the motion to reconsider is laid on the table.

If there was objection, the chair would put the question on the motion to table. A member may then call for a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting.

Ranking Minority Member (or Another Member): Pursuant to House Rule XI, clause 2(l) and Committee Rule *(number)*, I ask that committee members have an additional *(number provided in committee rules)* days to file with the clerk of the committee supplemental, additional, minority, and dissenting views.

Chair: Without objection.

Another Member: A parliamentary inquiry, Mr. Chairman. Would the chair please clarify what is the deadline for the submission of views? Does today count as the first day?

Chair: Today counts as the first day, tomorrow as the second day, and so on.

Member: I thank the chair.

Majority Party Member: Pursuant to Rule XXII, clause 1 and Committee Rule *(number)*, I move that the committee authorize the chair to offer such motions as may be necessary in the House to go to conference with the Senate on the bill just ordered reported by this committee or on a similar Senate bill.

Rules XI, clause 2(a)(3) authorizes committees to adopt a rule authorizing their chair to make this motion in the House.

Chair: Without objection. Also without objection, the staff is authorized to make any technical and conforming changes. There being no further business, the committee stands adjourned.

Appendix R. Sample Script for Reporting a Clean Bill or Resolution

Chair: Hearing no further amendments, the question is on agreeing to the measure [as amended if amended]. All those in favor, say "aye." (*Listens for response.)* All those opposed, say "no." (*Listens for response.)* In the opinion of the chair, the ayes have it and the question is agreed to.

A member may request a division vote or recorded vote, or a division vote and then a recorded vote, a sufficient second having been obtained for any recorded vote. If a member demands a division vote, another member may preempt it by requesting a recorded vote before the chair begins counting. A committee member may demand a vote on the motion to reconsider if he or she voted on the prevailing side.

Chair: It is the chair's intention to introduce in the House a bill reflecting the text of the measure [as amended if amended].

If the chair wants cosponsors, he could announce that members wishing to be original cosponsors contact a named individual on the majority committee staff by a specific date and time.

Chair: Without objection, upon referral of the bill to the committee, the bill is deemed reported to the House.

Chair: Without objection, pursuant to Rule XXII, clause 1, the chair is authorized to offer such motions as may be necessary in the House to go to conference with the Senate on the bill just deemed ordered reported by this committee or on a similar Senate bill. Without objection, the staff is authorized to make any technical and conforming changes.

Rules XI, clause 2(a)(3) authorizes committees to adopt a rule authorizing their chair to make this motion in the House.

Appendix S. Consideration and Reporting of a Measure by Unanimous Consent

Chair: I understand that the next measure is noncontroversial, that no member seeks to debate or amend it, and that it can be reported to the House unanimously. Therefore, I ask unanimous consent to call up the bill [resolution], which shall be considered as read and read for amendment. The clerk shall report the bill [resolution].

Clerk reads bill [resolution] number and official title.

Chair: The measure as considered is agreed to and ordered reported to the House.

Member: Madam Chairman, reserving the right to object, and I will not object, I wish to thank the committee for considering my bill [resolution] so expeditiously. I withdraw my reservation.

Chair: The measure is ordered reported. The next item of business is….

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