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House Rules Governing Committee Markup Procedures

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The rules of the House provide only general guidance to committees for conducting meetings to mark up legislation. There are no House rules that explicitly govern the various aspects of markup procedure. Instead, clause 1(a)(1) of Rule XI provides in part that “the Rules of the House are the rules of its committees and subcommittees *so far as applicable...*” And clause 2(a)(1) of the same rule directs each standing committee to adopt written rules governing its own procedures that “may be *not inconsistent* with the Rules of the House....” (Italics added).

These requirements leave many questions unanswered. The House can apply different rules to the consideration of measures on the floor; for example, the House can consider one bill under suspension of the rules and then debate the next bill in Committee of the Whole. It is not obvious, therefore, which House rules are to be applicable to committees. Further, it would not be possible for committees to adopt rules that would be “not inconsistent” with all of these different rules.

The House parliamentarian provides helpful guidance when he notes in the commentary accompanying Sec. XXX of *Jefferson’s Manual* that “[t]he procedures applicable in the House as in the Committee of the Whole generally apply to proceedings in committees of the House of Representatives.” The House does not often consider measures in the *House as in Committee of the Whole*, as distinguished from considering bills either in the House *or* in Committee of the Whole. Furthermore, as the parliamentarian explains, the procedures that govern floor action in the House as in Committee of the Whole are different in several respects from the procedures applicable in committee.

Based on the parliamentarian’s guidance, it is possible to identify the key procedures that House committees are to follow during the markup process.

- **First reading.** The first reading of the bill may be waived by a nondebatable motion, if printed copies of the bill are available. Clause 1(a)(1)(B) of Rule XI makes this motion in order.
- **Reading the bill for amendment.** The bill is to be read for amendment, one section at a time, unless the committee agrees otherwise by unanimous consent. Members are to offer their amendments to each section of the bill after that section has been read but before the next section is read. Only by unanimous consent may the committee consider the bill as having been read and open for amendment at any point.
- **Reading sections of the bill.** Each section of the bill is to be read before Members offer amendments to it. This reading may be waived by unanimous consent.
- **Reading amendments.** Each amendment is to be read before debate on it begins, unless the reading is waived by unanimous consent.
- **Debate.** All debate is conducted under the five-minute rule, except for debate on points of order, which the chairman entertains at his discretion.
- **Motions to close debate.** A Member may move to close the debate on the pending section (and all amendments thereto) or on the pending amendment (and all amendments thereto). The 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 the entire bill if any portion of the bill has not yet been read. After the time for debate has expired, Members may offer additional amendments, but unanimous consent is required to explain or debate them.
- **The previous question.** A motion to close debate does precisely that; it stops the debate but it does not prevent Members from offering additional amendments. Alternately, to end debate *and* preclude further amendments, a Member may move the previous question on a pending amendment (and all amendments thereto), but not on the pending section of the bill. Also, a Member may move the previous question on the entire bill (and all amendments thereto), but only after the bill has been read in full or the committee has agreed by unanimous consent to dispense with the reading of the bill.
- **The vote to report.** After the committee disposes of the last amendment to the bill, it votes on a motion to order the bill reported, together with whatever amendments the committee has adopted. The committee does not vote on approving or passing the bill.

It is left largely to each committee to enforce its procedures governing the process of debate and amendment during markup sessions. In the commentary accompanying Rule XI, clause 2(a)(1), 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.”