

# RL30244: THE COMMITTEE MARKUP PROCESS IN THE HOUSE OF REPRESENTATIVES

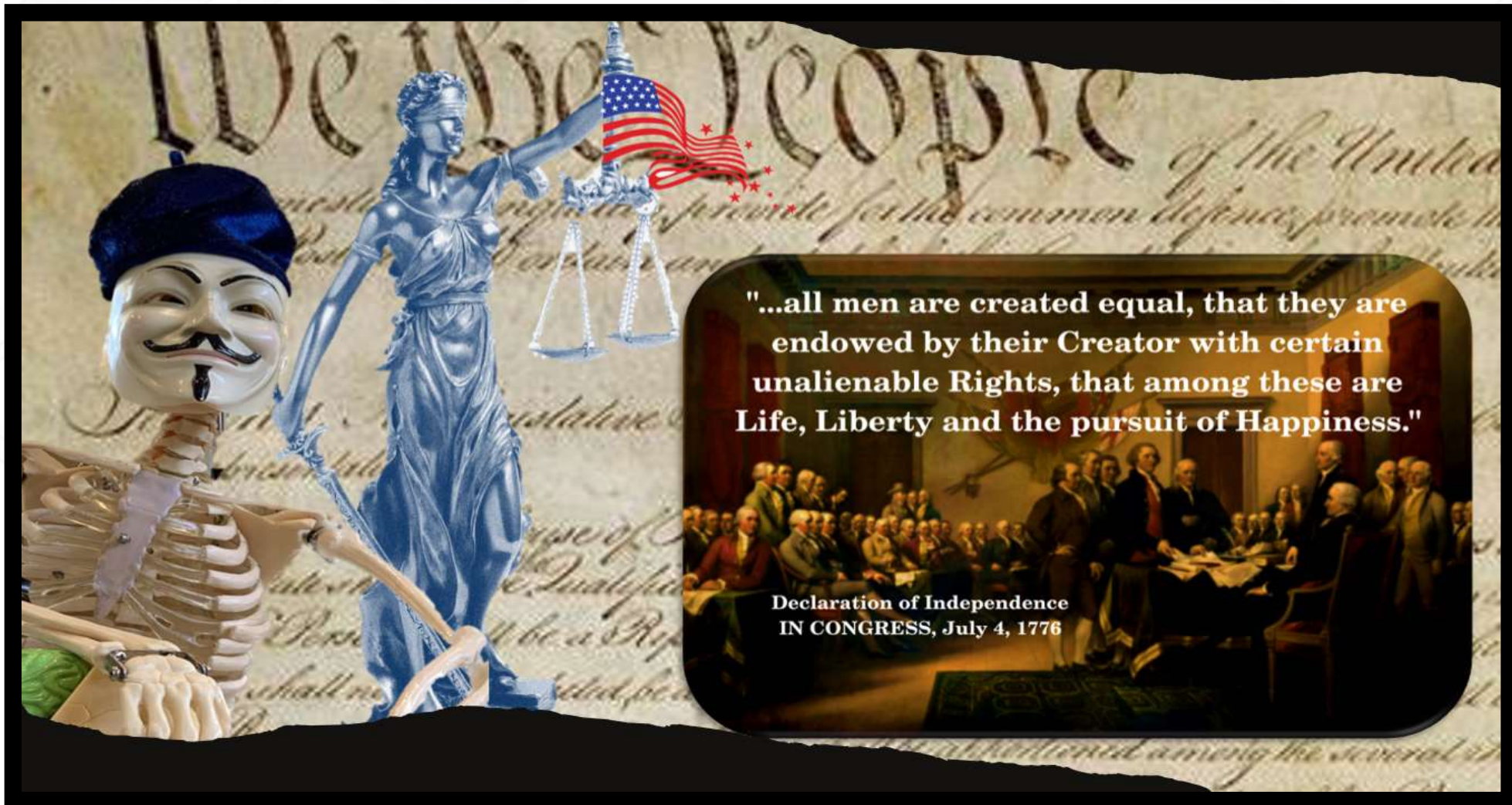
Overview



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# Introduction

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## The Committee Markup Process in the House of Representatives

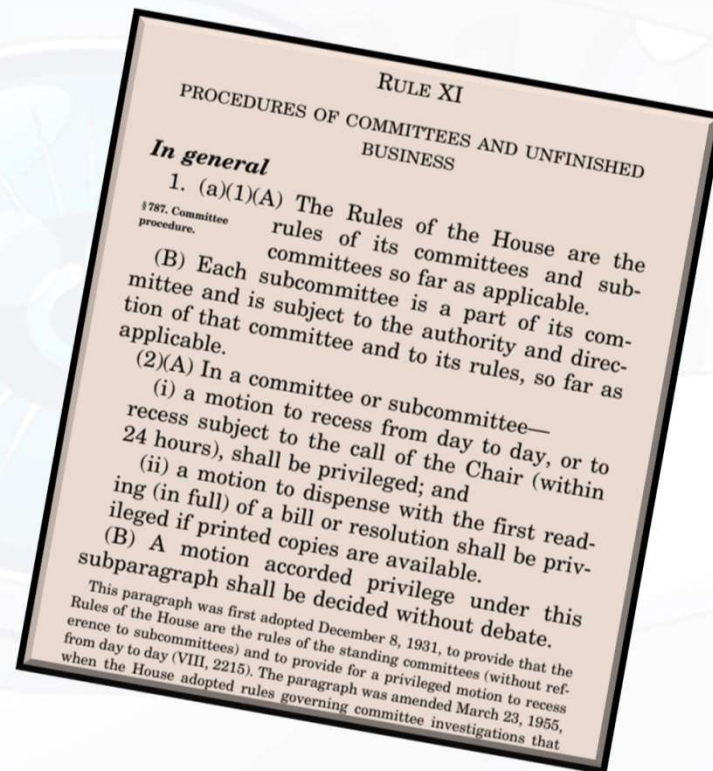
Updated February 8, 2023

- The primary legislative function of standing committees in the House of Representatives is to evaluate thousands of bills and resolutions that Members introduce during each Congress.
- Markup meetings are held when the committee or one of its subcommittees decides that it may want to recommend that the House take legislative action in order to propose and vote on amendments to a bill (or the draft of a bill).
- The meetings are called markups because committee members mark up the legislation before them as they decide what amendments to propose to the House.
- This report focuses on the markup stage and discusses the selection of the text to be marked up, the procedures for proposing and debating amendments to that text, the voting and quorum procedures that govern markups, and the final stages of ordering the marked-up text reported to the House for its consideration.



# Rule XI: Procedures of Committees and Unfinished Business Applicability

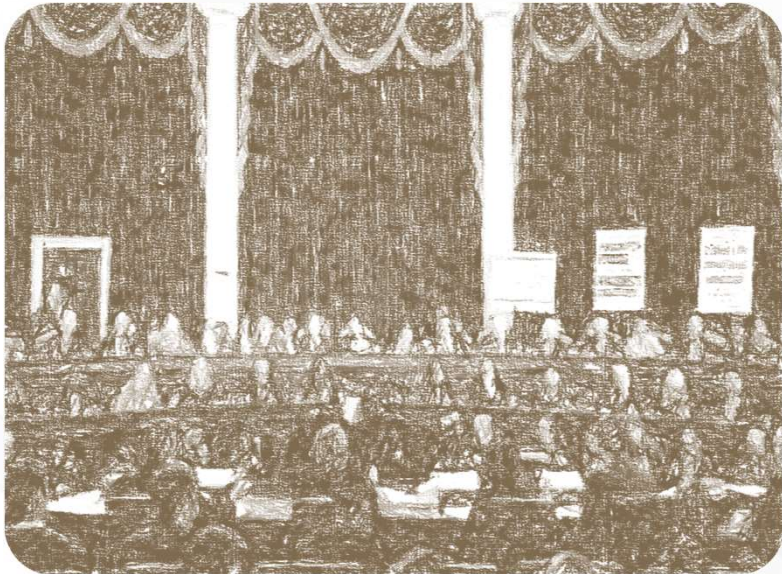
- The Markup process in House committees reflect many of the rules that govern the amending process on the House floor.
- Clause 1(a)(1)(A) states: “*the Rules of the House are the rules of its committees and subcommittees so far as applicable.*” However, there is more than one house rule governing aspects of the floor amendment process which include debate termination and preclusion of additional amendments from being offered.
- Clause 2(a)(1) empowers each standing committee to supplement and implement clause 1(a)(1)(A) by adopting its own written rules, which each committee applies accordingly. In addition, it states that the committee rules “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.” Due to its ambiguity, the House of Parliamentarian has provided committees with guidance on how the requirements should be understood and applied during the conduct of markups and other committee meetings.



See [HMAN-110-pg540.pdf \(govinfo.gov\)](https://www.govinfo.gov/content/pkg/HMAN-110/pdf/HMAN-110-pg540.pdf) > <https://www.govinfo.gov/content/pkg/HMAN-110/pdf/HMAN-110-pg540.pdf>

# Committees Variations

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- Committees are smaller bodies, and therefore they do not always need elaborate rules that are strictly enforced in order for them to conduct their business.
- Most committee markups tend to be less constrained by rules than those applicable to house sessions as the House Parliamentarian and his assistance are not required to attend the markup meetings.
- While committees designate a majority party staff member to provide procedural advice; the committee chairs tend to rely more on their own knowledge and judgement in conducting committee meetings than the speaker or other representatives who preside over House floor sessions.
- The processes in this report are specific to markup procedures the House committees are expected to employ and discuss informal practices and certain

# What steps are taken to select the text considered by the committee?

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There's three essential choices that can be considered and they are ...

- 1 The committee may mark up text of one of the bills or resolutions that Members have introduced and that the House Parliamentarian, acting for the Speaker, has referred to the committee.
- 2 Committee chair offers an amendment as a substitute- often known as “ANS” – a full-text alternative for the introduced bill which may include significant changes to the bill and reflect policy negotiations that occurred prior to the markup.
- 3 Mark up the draft of a bill that has not yet been formally introduced and referred to the committee under the direction of the committee chair that reflects the chair's policy preferences.

Regardless of the option selected by the committee, the text that a full committee marks up may have undergone various mark ups by other committee's subcommittees. Subcommittees tend to make legislative recommendations to its parent committee and in turn, the committee often uses the subcommittee's markup as a starting point to their own markup.

# Committee Chairs Authority - Meetings

Question	Answer
How often shall the committee chair hold meetings?	<i>Clause 2 (b) of House Rule XI</i> directs each committee to establish <u>regular monthly meeting</u> days to conduct business, which can include marking up legislation.
Can the chair call for other meetings?	Yes. <i>Clause 2(c) (1) of House Rule XI</i> authorizes <b>each standing committee chair to call “additional and special”</b> committee meetings “for the consideration of a bill or resolution pending before the committee or for the conduct of other committee business, subject to such rules as the committee may adopt.” This clause allows the chair to decide the measures or committee business that will be on the agenda of each meeting.
Are there specific rules that must be follow prior to scheduling a meeting?	Yes. The house rules require the chair to give prior notice before scheduling a meeting. <i>Clause 2 (g)(3) of the House Rule XI</i> state that a meeting “MAY NOT commence earlier than the third calendar day. <sup>1</sup> On which members have had notice thereof.” Saturdays, Sundays, and legal holidays are excluded from this calculation unless the House is in session on such days.
Can the requirements to schedule a meeting on exempted days be waived by the chair?	Yes. The chair, in concurrence with the ranking member, <b>can waive Clause 2(g)(3) of the House Rules XI for “Good cause”</b> . In addition, a majority of the committee, a quorum being present, can vote to waive the requirement.
What items rests effectively upon the chair?	The authority to schedule committee meetings, including markups, and to select matters for consideration at those meetings.

<sup>1</sup>. This requirement is not interpreted to require three (3) full days (or 72-hour) notice. If notice of a markup is properly made any time on Monday (Day 1), for example, a committee could hold its markup on the morning of Wednesday (Day 3).




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# Mark Up



# Recourse of Committee Members

## [Text to be Mark up]

Question	Answer
Do the committee members have a way to disagree with the chair's decision?	Yes. They have two (2) options, although they are rarely resorted on. This options <i>must happen before debate on it actually begins</i> .
What is the first option?	<p><u>ANY member</u> can compel a vote by raising what is known as <i>“the question of consideration”</i>. Clause <i>3 of House Rule XVI</i> (which Rule XI, clause 1(a) (1)(A), makes applicable to committees).</p> <p>If a majority of the committee votes “no” on the question, the process ends. This prevents the chair from compelling them to mark up legislation that they rather not consider. This isn't commonly raised; however, if it was, it is very unlikely that the committee will block consideration of a measure that the chair wishes the committee to mark up.</p>
Who can initiate the question of consideration?	The question “Will the House now consider it?” may not be raised UNLESS demanded by a <b>Member, Delegate, or Resident Commissioner</b> .
 What are the main reasons for blocking a question raised for consideration?	<p>There are two primary reasons ...</p> <ol style="list-style-type: none"> <li>1) The chair usually acts <i>in support of the majority party's policy and political interest</i>.</li> <li>2) <i>Control of the agenda</i> is at the very heart of the powers and prerogatives <i>of the majority party in the House</i>.</li> </ol>

# Recourse of Committee Members

## [Text to be Mark up Cont.]

Question	Answer
What is the second option?	If a committee chair fails to schedule a meeting to mark up legislation that the majority of the committee wants to consider, <i>any three (3) members may request in writing that the chair call a special meeting for a specific purpose</i> , such as to mark up a measure that is identified in the written request.
Can the committee members take control of the agenda away from the chair?	Yes. If the chair fails to call a meeting within three (3) days, and IF the meeting does not take place within seven (7) days, a majority of the committee may require that the committee meet for that purpose (and ONLY for that purpose) at a designated date and time. <sup>1</sup>
Can the outcome be impacted by political and institutional conditions?	<p>Yes. The chair's decisions can be overridden if he or she thwarts the will of the committee's majority party members. It is known that the majority party members in a committee are included to (and normally expected to) support the chair on procedural votes, <i>when control of the committee's agenda is at stake</i>.</p> <p>In fact, the minority party members have little to no effect on the recourse when they object to what the chair has or has not scheduled for the committee to mark up.</p>
What is an "ANS" ?	It is an amendment that is offered typically by the chair in the nature of a substitute- that is, an amendment that proposes to replace the entire text of the bill or resolution – at the start of the markup, which is then subject to further amendment.

<sup>1</sup>. This rule is hardly ever successful and is more likely invoked by the committee's minority, joined by at least a few majority party members of the committee who would have to be willing to undermine their party's control over the committee's agenda.

# General Markup Process

Question	Answer
What are the key issues with Rule XI Clause 1(a)(1)(A) and clause 2(a)(1) ?	<p><b>Clause 1(a)(1)(A):</b> <i>“the Rules of the House are the rules of its committees and subcommittees <b>so far as applicable</b>.”</i> &amp; <b>Clause 2(a)(1):</b> <i>“<b>may not be inconsistent</b> with the Rules of the House”</i> are so ambiguous that it has led to two problems when interpreting them. This issues are ...</p> <ol style="list-style-type: none"> <li>1) They do not provide a criteria on how to determine if committee rules may be deemed inconsistent with House rules.</li> <li>2) The specific rules that should apply to committees and subcommittees are not defined.</li> </ol> <p>Other issues impacting the clause requirements are ...</p> <ol style="list-style-type: none"> <li>1) It is not always feasible for the committees to adopt rules that avoid being inconsistent with any of the procedures noted.</li> <li>2) The house leverages different rules based on a case-by-case circumstance when considering various bills and resolutions on the floor.</li> <li>3) There’s no way for all of the procedures to be applicable to committees at the same time.</li> </ol>
What is the House Parliamentarian’s guidance?	<p>The Parliamentarian refers to <b>Section XXX of Jefferson’s Manual</b><sup>1</sup> <i>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.”</i> The phrase “The House as in Committee of the Whole” refers to a distinctive set of parliamentary procedures used to mark up bills in legislative committee.</p>

<sup>1</sup>. 4 U.S. Congress, House, Constitution, Jefferson’s Manual, and Rules of the House of Representatives of the United States 117th Congress, prepared by Jason A. Smith, 116th Cong., 2nd sess., H.Doc. 116-177 (Washington: GPO, 2021), §427, p. 231.

# Initiate Markup Process / First Reading

Question	Answer
When does the Markup Meeting begin?	When the chair calls the committee to order and announces the matters that the committee is expected to consider during the markup meeting. The chair may also announce that the requisite quorum of Members is present.
Can the chair postpone recorded votes?	Yes. If a committee rule has not already given the chair the authority to postpone votes that are ordered on amendments and the motion to report, he or she may seek unanimous consent for that purpose at the onset of the meeting. [Review Voting].
Does the chair have standing authority to recess the committee at any time?	Yes. It's common for a chair, by unanimous consent, to have standing authority to recess the committee at any time. This can be use when recorded votes are ordered on the House floor that committee members must leave to cast.
Who initiates the markup process?	The chair can initiate the markup by announcing that the committee will proceed to the consideration of the bill, resolution, or draft that is scheduled for consideration. The chair may also note that the requirements in House rules for prior notification of the meetings and the availability of the base text have been satisfied.
<b>First Reading</b>	
Which House Rule XI allows for the first reading to be waived?	<u>Clause 1(a)(1)(B)</u> provides for a privileged and non-debatable motion to waive the first reading in committee or subcommittees IF printed copies produced by the Government Publishing Office of the measure are available.



# Opening Statements / Offering and Debating Amendments

Question	Answer
When should opening statements on the issues take place?	Either before or after the chair formally presents the issue for consideration and after making his/her own first statement, the chair may recognize minority party members first and then other members alternatively based on the order of seniority in the committee or in the order in which they arrived at the committee meeting, also known as “early bird” practice.
How long should member’s opening statements be?	While the house rules or committee rules do not provide for opening statements, the chair may recognize its importance and either .... <ol style="list-style-type: none"> <li>1) Give Each member <i>five (5) minutes</i> for each issue being addressed; or</li> <li>2) Request that each member submits a written opening statement which is then included in the formal record of the committee’s proceedings.</li> </ol>
What takes place after the opening statements are finished?	The committee initiates the markup process per se by entertaining, debating, and voting on amendments. This process DOES NOT AMEND the issue, but rather votes on what items [bill, amendment, etc.] , if any, the committee will recommend that the House adopt when it considers the issue on the floor.
<b>Offering and Debating Amendments</b>	
Who has the authority to change the text of bills introduced by members?	The House as a whole (meeting as the House, not in committee of the Whole) has such authority.

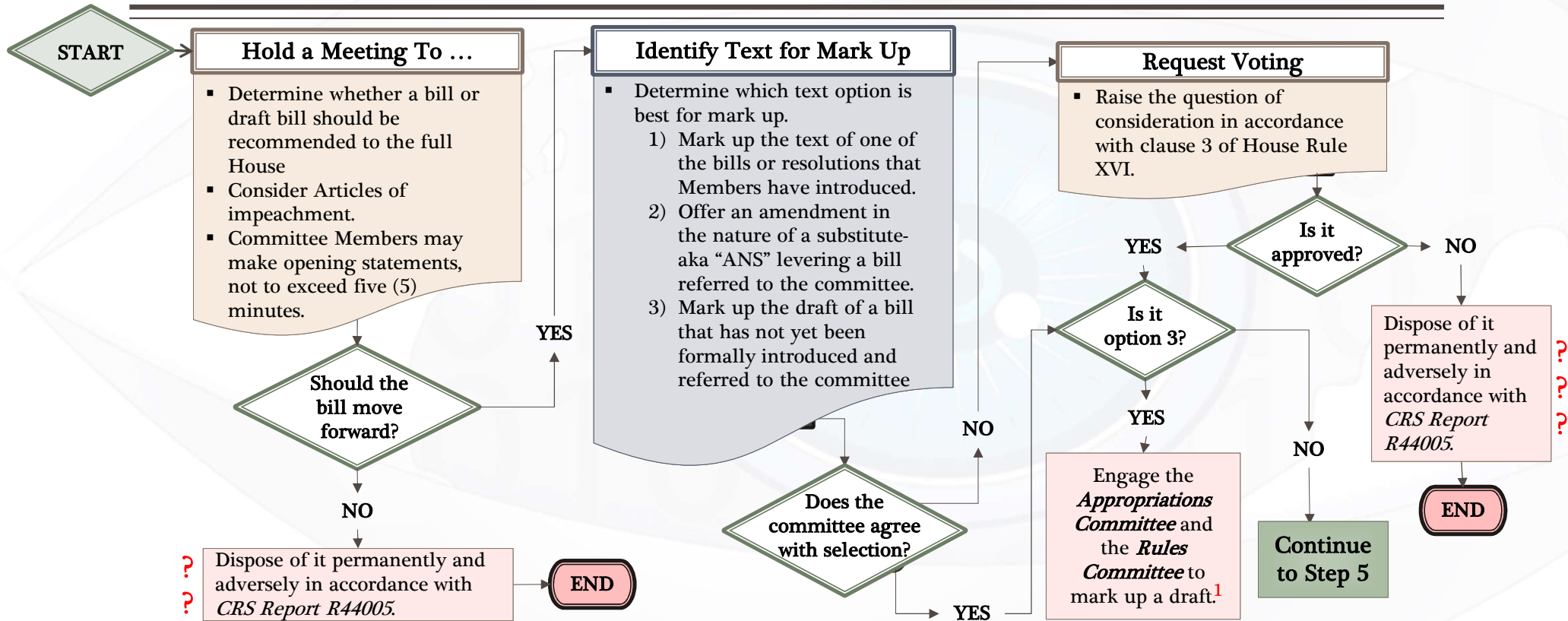
# Reading Bills for Amendment

Question	Answer
<b>Can the full house devise an alternative amendment process?</b>	<b>Yes.</b> The full House can devise an alternative amendment process by agreeing to a resolution (a “special rule”) reported by the Rules Committee.
<b>Are there any requirements members should follow?</b>	<b>Yes.</b> Unless unanimous consent is agreed by the committee, the House rules require committee members to offer their amendments to each section of the bill in sequence.
<b>When can members offer amendments?</b>	After the clerk reads each section, a call for suggestions is made. During that time frame members may propose amendments ONLY TO the section read. This process continues until all other sections are read.
<b>Is every section of the have to be read?</b>	<b>No.</b> When the chair first calls up the bill for consideration, he or she often asks unanimous consent that each section of the bill be considered as having been read. Typically, there’s no objection because committee members have copies of the bill in accordance with whatever markup notice requirements are in the committee’s rule.
<b>What if the bill is complex and long?</b>	If the bill its complex and long, they are typically divided into titles, and each title is then sub-divided into sections. In this case, the chair may request unanimous consent for the bill to be open for amendment one title or chapter, not just to one section of it at a time. This allows committee members to address at the same time all aspects of each title or chapter.
<b>What happens with shorter bills?</b>	IF the bill is shorter or not many amendments are expected it, the chair may ask unanimous consent that the entire text of the bill be considered as read and open to amendment at any point- which allows members to offer their amendments to any part of the bill in any order in order to conserve time without causing confusion.

# Offering Amendments

Question	Answer
What takes place when a full committee is marking up a bill that one of its sub-committees already mark up?	The chair tends to give priority consideration to any subcommittee-approved amendments to each section (or whatever part of the text open to amendment). The chair then recognizes a senior member of his or her own party to offer additional amendments. Once the committee disposes of a particular amendment, the chair recognizes a senior member of the minority party to offer another amendment. Thereafter, members are recognized in order of seniority while alternating between Members of the parties.
What happens when a particular legislation require many amendments?	<i>Committees often agree to use an informal system of giving priority consideration to amendments submitted in advance.</i> A list known as “ <i>Amendment Roster</i> ” is then distributed and the order in which they are to be addressed is negotiated in advance of the meeting.
What are the four kinds of amendments noted under House Rule XVI, Clause 6?	<p><i>House Rule XVI, clause 6</i> types are ....</p> <ol style="list-style-type: none"> <li>1) A first-degree amendment that proposes to change the base text that is being marked up.</li> <li>2) A second-degree perfecting amendment to that amendment.</li> <li>3) A substitute that proposes to replace the entire text of the pending first-degree amendment.</li> <li>4) An amendment to the substitute.</li> </ol> <p>Each amendment <b>MUST</b> be in writing, with enough copies for all committee members (and often committee staff, reporters, and other interested observers).</p>

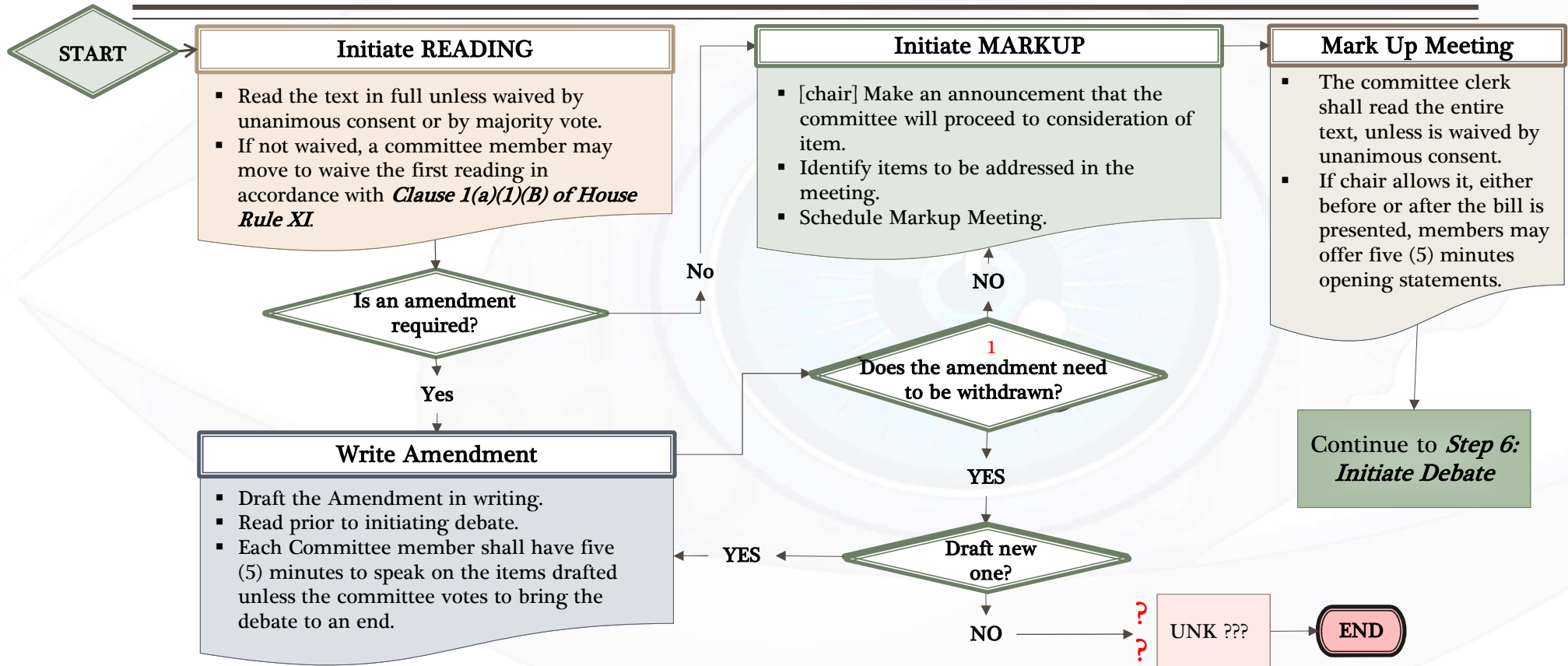
## STEP 4: Markup of Articles of Impeachment [Chair]



<sup>1</sup>. These two committees have special authority under House rules to originate a measure at the time of reporting. [ See Charles W. Johnson, John V. Sullivan, Thomas J. Wickham, Jr., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* (Washington: GPO, 2017), ch. 11 § 34, pp 300-301



## STEP 5: General Markup Process



1. An amendment may be withdrawn without unanimous consent unless the committee has acted on it.

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# DEBATE

# Debating Amendments

Question	Answer
<b>How long is an amendment debated?</b>	Each amendment called up and proposed in committee is debated under the five (5) minute rule. The chair first recognizes the amendment's sponsor to explain and justify the amendment, then a member who opposes the amendment is allow to speak. Both five minutes. Then each committee member may be recognized to speak unless the committee votes to stop the debate.
<b>What members do when they wish to seek recognition?</b>	They will <i>"move to strike the last work"</i> (called a <i>pro forma</i> amendment), although pro forma amendments are not required to secure time to speak in committee markups, the member may only be recognized to speak once on the same amendment.
<b>What's the conventional method for recognizing debate among members?</b>	The chair normally follow various conventional methods such as ... <ol style="list-style-type: none"> <li>1) Alternating between majority and minority party members</li> <li>2) Giving preference to Members in order of their seniority on the committee.</li> <li>3) Seldomly, chair may depart from the above practices in favor of giving junior Members equitable opportunities to participate.</li> </ol>
<b>Can a member ask for additional time?</b>	<b>Yes.</b> While it's not guaranteed, the member may ask unanimous consent to continue for additional time by asking the next person to yield. If the member who controls the time agrees, his or her time continues to run while the other member is speaking. However, the member that yields he may reclaim his time whenever he wants.
<b>Are members allowed to ask non-member questions?</b>	<b>Depends.</b> Some committees permit questions to be addressed to committee professional staff or even invite executive branch officials during debates on amendments, particularly when the subject of the legislation is especially technical in nature [e.g., tax code, trade, or budgetary policy.].

# Debating Amendments [ Cont.]


## Two Motions to Conclude Debate

Question	Answer
Can a sponsor of an amendment withdraw it?	Yes. The sponsor of an amendment may withdraw it without the need for unanimous consent, unless the committee already has amended or agreed to it. On the other hand, unanimous consent is required to modify the text of a pending amendment.
<b>Two Motions to Conclude Debate</b>	
What steps shall the chair or sponsors take when their signal to initiate a vote is ineffective?	<p>There are two non-debatable motions that members can offer to conclude debates during markup. This are ...</p> <ol style="list-style-type: none"> <li>1) <b><i>Motion to Order the Previous Question</i></b> &gt; proposes to stop debate and block amendments.</li> <li>2) <b><i>Motion to Close the Debate</i></b> &gt; A member may move to close the debate ...               <ol style="list-style-type: none"> <li>i. on the pending amendment (and nay pending amendments to it) or</li> <li>ii. on the section, title, or chapter (and any pending amendments to it) that is open for amendment or</li> <li>iii. On the entire text of the bill (and any pending amendments to it)</li> </ol> </li> </ol> <p><b>But ONLY IF the reading of the bill has been completed or dispensed with.</b> The main difference between the two motions is that the committee can vote to close the debate on the pending section of the bill or on the bill, but it may not order the previous question on it.</p>
When can a previous question be moved to vote?	It may be moved on a pending amendment (and amendments to it) or on debatable motions or actions, such as an appeal of the ruling of the chair; however, it may not move the previous question on the section (or title, chapter) of the bill that is open for amendment, or on the bill itself.




## Two Motions to Conclude Debate [Cont.]

### Majority Powers and Minority Rights

Question	Answer
<b>What exactly does the Motion to Close the Debate do?</b>	The Motion to Close the Debate brings the debate (on the section or the bill) to an end. It does not affect the rights of Members to offer additional amendments. It typically offers three (3) options: (i) close the debate immediately; (ii) at a certain time; or (iii) after a certain period of time for additional debate.
<b>Can members offer additional amendments after the debate is closed?</b>	<b>Yes.</b> Members can continue to offer additional amendments to the section, and request roll call votes on them, but they may not take any time to explain their amendments (except by unanimous consent). The motion only precludes debate on amendment after debate on the section has been closed.
<b>Majority Powers and Minority Rights</b>	
 <b>Who truly controls the outcome of the debate?</b>	The Majority Party by using special rules to control how long Members can spend offering and debating amendments to the bills. While the minority party may be given the opportunity to offer their amendments to each section and request roll call votes on the amendments, the committee majority has the upper hand.
<b>Can limiting the use of the two debate-ending motions put the majority party in disadvantage?</b>	<b>Yes.</b> The House frequently considers major bills on the floor under the terms of special rules recommended by the Rules Committee that restrict the floor amendments that Members are allowed to offer. By leveraging the special rules, the majority can limit the number of amendments that Members can offer in the floor and permit some amendments to be offered while blocking consideration of others.

## Majority Powers and Minority Rights [Cont.]

Question	Answer
 <b>How can the Majority Party block the minority party from insisting that a bill be read for amendment by sections and offering amendments?</b>	They can gain more control over how long a markup lasts through the use of amendment in the nature of a substitute. The committee chair (or another majority party member acting for the chair) may offer an amendment in the nature of a substitute as soon as the first section of the bill has been read- which in turn represents the majority's preferred version of the bill and halts other members ability to offer amendments to the bill itself, except to the first section.
<b>What are the potential disadvantages of a substitute amendments?</b>	There are two (2) key potential disadvantages, and they are ... <ol style="list-style-type: none"><li>1) Any member can insist that the complete substitute be read in full, and this can be a time-consuming process. The majority cannot waive this reading by motion.</li><li>2) The Majority's ability to use the amendment process to its advantage is limited, because it is a first-degree amendment and the minority can offer second-degree perfecting amendments, which cannot be amended.</li></ol>
<b>Can a second-degree amendment to a first-degree substitute amendment be amended?</b>	<b>No.</b> Second-degree amendments cannot be amended. The majority party cannot alter minority degree amendments before taking a vote on them. If the committee agrees to consider an amendment in the nature of a substitute as "original text" or as "an original question for purpose of amendment", then committee members can offer amendments to it in two degrees. However, it requires unanimous consent to treat a complete substitute in this way.

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# Motions, Quorums, and Votes

# Motions

Question	Answer
Which rule allows members to propose motions during markups?	Rule XI, Clause 2(a), in the <i>House Rules and Manual</i> that committees “ <i>may employ the ordinary motions which are in order in the House.</i> ” such as motions to adjourn, table, postpone to a day certain, postpone indefinitely, and reconsider. <sup>1</sup>
What is a motion to table?	It is a motion that is rarely made to dispose of amendments during House committee markups because the effect of tabling an amendment is to table (or kill) the bill to which the amendment was offered. All motions MUST be in writing., although not always required for all motions [e.g. motion to adjourn].
What is a motion to reconsider?	It is a motion that is offered from time to time, especially when Members who are losing a roll call vote (on an amendment) believe that they are going to lose that vote only because one or more committee members are absent.
What happens when a member opts to vote for the winning side instead of the losing side during a motion to reconsider?	Voting for the winning side instead of the losing side qualifies that member to move to reconsider the vote at some time before the markup ends- since the member must be on the prevailing side of a question in order to be qualified to make the motion to reconsider.
What happens when a majority votes for the motion to reconsider?	The committee votes anew on the amendment and may reverse the outcome or the committee may vote to dispose of a motion to reconsider by voting to table it.

<sup>1</sup> U.S. Congress, House, Constitution, Jefferson’s Manual, and Rules of the House of Representatives of the United States 117th Congress, prepared by Jason A. Smith, 116th Cong., 2nd sess., H.Doc. 116-177 (Washington: GPO, 2021), §792, p. 574



# Quorums

Question	Answer
What are the two primary quorum requirements governing committee markups?	<p>There are two (2) primary requirements, and they are ...</p> <ol style="list-style-type: none"><li>1) <b>Clause 2(h)(1)</b> of House Rule XI &gt; This rule requires that a majority of the committee's membership must actually be present when the committee votes to order a measure or matter reported; commonly referred to as a <i>"reporting quorum"</i>; however, House rules do not insist that a majority be present for other purposes. <sup>1</sup></li><li>2) <b>Clause 2(h)(3)</b> allows committees to set their own quorum requirement in their committee rules, so long as that quorum is not less than one-third of the committee's members. This is typically applied for most other votes and for other proceedings during a markup. This is sometimes referred to as a <i>"business quorum."</i> Most committees adopt a one-third quorum requirement as part of their rules.</li></ol>
Is it easier to insist in a quorum on the floor or in a committee?	<p>It's easier to insist that a quorum be present in a committee than on the House floor. On the floor, a member rarely can demand the presence of a quorum unless a vote is taking place. In a committee, any member whom the chair has recognized can make a point of order that a quorum is not present- which then triggers the chair to initiate a count to determine whether in fact a quorum is not present. The chair's count is not subject to challenge or appeal. If a quorum is present, the chair announces that fact and business resumes. If a quorum is not present, the chair must initiate a quorum call and the necessary quorum of Members must register their presence before business can resume.</p>

<sup>1</sup>. There are several other actions for which a quorum consists of a majority of the committee's membership or some other threshold. These include authorizing and issuing subpoenas and releasing executive session material. For more information, see House Practice, ch. 11, §21, pp. 283-284

# Voting

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Question	Answer
How are votes decided?	During committee meetings, votes can be decided by voice, division, or record votes. Like the House, committees first take a voice vote on each questions to determine the “Aye’s” and “Nay’s” and based on what it hears, it states the outcome of each option.
Can members demand a division count after the voice vote?	Yes, although rare in nature. Any member can demand a division vote which triggers the chair to ask those in favor to raise their hands until counted, followed by those opposed.
Can any member request that the question be decided by a call of the roll?	Yes. However, such <i>must take place before the chair announces the final result of either a voice vote or a division vote</i> . The request for a roll call vote <i>must be supported by at least one-fifth of the Members present</i> , although not always required, as a chair may order a roll call vote on a question as a courtesy to any member who request it or even in anticipation that members will request it.
What takes place during a roll call?	The chair directs the clerk to call the roll and the clerk first calls the names of the majority party members, followed by the names of the minority party members. Once the clerk completes the call, the chair directs the clerk to call the names of the members who failed to vote when their names were first called. In addition, chairs commonly ask if all Members have voted and whether any member wishes to changes his or her vote. The clerk tallies the vote and at the chair’s direction, reports the number of members voting aye or nay.

## Voting [Cont.]

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Question	Answer
Can roll call votes be postponed?	Yes. House Rule XI, clause 2(h)(4) grants committees the authority to adopt a rule authorizing the chair of the committee or subcommittee to postpone roll call votes on amendments or on approving a measure or matter. Since members sometimes have two or more committee or subcommittee meetings at the same time, chairs often delay a roll call vote when they are informed that absent Members intend to come to the committee room to vote in order to ensure their vote is recorded.
Are there any alternatives to postponing the vote?	<p>Yes. The chair might delay it by asking the clerk to report the tally to allow absent Members to reach the committee room and cast their votes.</p> <p>However, while the chair is empowered to postpone recorded votes that are ordered on amendments and the question of approving a measure or matter, other recorded votes that may arise during markup- such as motion to adjourn, lay on the table, or postpone- may not be postponed and the committee must take those votes as they occur.</p>
Do the results of roll call votes need to be public?	Yes. <i>House Rule XI, clause 2(e)(1)(b)(i)</i> , committees must make <b><i>the results of roll call votes taken in open sessions available within forty-eight (48) hours of the vote</i></b> . The information to be made publicly available includes (i) a description of the amendment or other proposition voted on; (ii) the names of the Members voting for and against it and the names of those committee members who were present but did not vote.

## Voting [Cont.]

Question	Answer
When should the text of any amendment agreed on be made public?	<p>The text of any amendment agreed to <i>must be made publicly via electronic form within twenty-four (24) hours of its approval</i>, and <i>the text of any other amendment disposed of or withdrawn must be publicly available in electronic form within forty-eight (48) hours</i> in accordance with <i>House Rule XI, clause 2(e)(6)</i>.</p> <p>They are listed for public review in the following site: <a href="https://docs.house.gov/">Document Repository (house.gov)</a> &gt; <a href="https://docs.house.gov/">https://docs.house.gov/</a></p>

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# **Points of Order and Parliamentary Inquiries**



# Points of Order and Appeals

Question	Answer
Can the chair participate freely in the debate during a markup?	Yes. Unlike the Speaker and other Members who preside over floor sessions of the House, <i>the chair is responsible for maintaining order, insisting on proper decorum, and enforcing applicable procedures.</i> In addition, the chair is more likely to take the initiative in declining to recognize Members who are about to say or do something in violation of proper procedures.
Who is ultimately responsible for raising violation questions?	<i>Committee Members</i> are responsible for protecting their rights by making points of order whenever they believe that appropriate procedures are being violated.
What is a point of Order and what happens when raised by a member?	A point of order is raised by a member when a procedural requirement or prohibition has been violated. To make a point of order, the committee member addresses the chair at the appropriate time and announces that he or she wishes to make a point of order. Once recognized by the chair, the member is required to explain his point of order. Once the point is made, the member whose actions are being challenged is recognized by the chair and allowed to provide a response. After the two key individuals provide their input, the chair at his discretion may recognize other members to argue for or against the point of order. A Point of Order is not debatable by Members.
What steps does the chair take after hearing the members input on the point of order raised?	The chair rules on the point of order, either sustaining or overruling it. The ruling is based on the chair's understanding of proper procedures, perhaps with the advice of senior committee staff and with the benefit of whatever debate on the point of order took place.

## Points of Order and Appeals [Cont.]

Question	Answer
<b>Can members seek guidance from the House Parliamentarian on the point of order?</b>	<b>Yes.</b> The House Parliamentarian and his assistant do not attend committee meeting to provide authoritative procedural guidance; however, committee staff may seek guidance from the Office of the Parliamentarian in advance of committee meeting, or via telephone during the course of the meeting to further validate the claim.
<b>Can a member challenge the chair's ruling on a point of order?</b>	<b>Yes.</b> Any committee member who disagrees with the chair's ruling may challenge it by addressing the chair and appealing the ruling. This will trigger a voting on whether the ruling of the chair is to stand as the decision of the committee.
<b>What takes place during an appeal process?</b>	If an appeal is warranted, the members who has been recognized may make either of two non-debatable motions that, if adopted, end debate on the appeal. They can move the previous question on the appeal, or they may move to table the appeal. This leverages the five (5) minute rule. If the committee votes to table an appeal, the ruling of the chair stands. Is rare for a committee to vote directly on an appeal of the ruling of its chair; most are immediately tabled by the majority.

# Reserving Points of Order

Question	Answer
During a committee markup, when is a point of order raised?	A Point of order is most commonly raised against amendments on the grounds that they are not germane. <sup>1</sup> Any member making a point of order must be alert to make it at the proper moment. They can be made against an amendment (or any other debatable motion) after it has been read or the committee has waived the reading of the amendment but before debate on it has begun.
When are point of order to late for consideration?	Once the proponent of the amendment begins to explain it, a point of order no longer can be made against the amendment.
Are there any challenges associated with introducing a point of order?	Yes. When an amendment is offered by a member, the chair directs the clerk to distribute copies of it to all Members of the Committee. <i>While distribution takes place, the member offering the amendment tends to explain it and by the time other committee members received and review the copies of the amendment, it is too late to make a point of order against it because the debate on the amendment had begun.</i>
How can members avoid the challenge noted above?	<p>To avoid being late, members can “reserve” points of order against amendments as soon as they are offered, and without having yet seen them. This then triggers the amendment’s sponsor to explain and defend it for five (5) minutes, while other Members examine it, determine whether it is subject to a point of order, and if so, decide whether they want to make that point of order.</p> <p>Once the sponsor relinquished the floor, the member who reserved the point of order may make it or withdraw the reservation and allow the debate to continue.</p>

<sup>1</sup>. Germane means relevant to a subject under consideration.

# Parliamentary Inquiries

Question	Answer
When can a committee member initiate a parliamentary inquiry?	When the member is uncertain about the procedures being followed during the markup, he or she may address the chair and, when recognized, make a parliamentary inquiry.
What can the inquiry address?	The inquiry <i>must be a question about procedure</i> , not about the substance, meaning, or effect of the bill or amendment the committee is debating.
Can a chair dismiss the inquiry?	<b>Yes.</b> The chair is not required to entertain parliamentary inquiries - especially when they are convinced that the inquiry is repetitive or is being made solely for dilatory purposes.
Is the chair's reply to the inquiry subject to appeal?	<b>No.</b> The chair's reply is not subject to appeal because it constitutes only an explanation, not a formal ruling.
Are there other inquiries made by members?	<b>Yes.</b> There are times when committee members address the chair to raise a "point of information" or a "point of clarification". While neither exist under the procedures of the House of Representatives or its committees, the chair may reply as a courtesy to their fellow committee members.

# Challenging Committee Procedures

Question	Answer
Can a procedural ruling from a chair be reversed?	<b>Maybe.</b> The chair procedural rulings are usually final; however, they may be reversed on appeal by majority vote of the committee.
Can a member challenge the ruling on the floor of the House?	<b>No.</b> Procedure in the House (Chapter 17, Section 11,1), the House Parliamentarian has stated 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 was ordered reported to the House.
Can a point of order made in the House be overruled?	<b>Yes.</b> Any point of order made in the House can be overruled on the ground that the rules of a particular committee are for that committee to interpret unless they are in direct conflict with the rules of the House or unless the House rules specifically permit the raising of such objections.
Can the committee cure procedural defects that took place at an earlier time?	<b>Yes.</b> If the committee votes to order a bill reported to the House, that vote (if properly conducted) cures procedural defects that may have occurred at earlier stages of the committee’s consideration of the bill. <sup>1</sup>

<sup>1</sup>. This is not to say that a committee chair may willfully ignore proper committee procedure or run roughshod over the rights of committee members under the rules. It is possible that violations of the integrity of the legislative proceedings of a committee could give rise to a valid question of the privileges of the House and be presented to the chamber for remedy via a privileged resolution under Rule IX. See House Practice, ch. 42, §3, pp. 734-735.



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# **Motions to Conclude Markups**

# Motions to Conclude Markups

Question	Answer
<b>Does a House committee have the authority to change the text introduced or referred?</b>	<b>No.</b> They do not have the authority to change the text of a measure that has been introduced and referred to it, nor do committees vote directly on the merits of bills and resolutions. Instead, the committee votes on the amendments that it will recommend to the House. The House then considers and votes on reported committee amendments when it acts on the bill itself.
<b>What takes place during a substitute amendment?</b>	For tactical reasons, committee members may initiate markup when the chair or someone on his behalf offers a substitute amendment. Members are then able to offer their amendments to the complete substitute, rather than to the text of the underlying bill. This way, the final votes of the committee is on agreeing to the amendments in the nature of a substitute, as it may have been amended.
<b>What is forwarded to the House when a substitute amendment is offered instead of the original text?</b>	The initial bill is submitted to the House with a single amendment in the nature of a substitute, even if multiple amendments were adopted during the course of the markup. The amendment in the nature of a substitute acts like a “basket” carrying the text of the multiple amendments agreed to in the markup out to the House in a single package, simplifying floor consideration of the reported measure.

# Ordering the Bill Reported

Question	Answer
Can a committee conclude a markup?	No. They do not conclude its markup by voting on the bill itself; for they do not have the authority to approve or disapprove legislation referred to them.
What happens after all amendments are voted on?	The chair recognizes a majority party member to move that the committee order the bill reported to the House with whatever amendments the committee has adopted during the markup, and with the recommendation that the House agree to those amendments and then pass the bill as amended.
When is the bill actually reported?	The bill is actually reported (as opposed to the committee <i>ordering</i> it reported) when the bill and the accompanying written committee report are submitted to the Clerk when the House is in session.
What takes place after the bill is officially reported?	The committee report, the original bill, and associated amendments are printed in order to show the committee's action and their recommendations.
Which calendar are bills listed on?	There are two calendars. If the bill authorizes or appropriates funds or affects revenues, it is listed on the Union Calendar, otherwise it will be listed on the House Calendar.

**1.** This is not to say that a committee chair may willfully ignore proper committee procedure or run roughshod over the rights of committee members under the rules. It is possible that violations of the integrity of the legislative proceedings of a committee could give rise to a valid question of the privileges of the House and be presented to the chamber for remedy via a privileged resolution under Rule IX. See House Practice, ch. 42, §3, pp. 734-735.

## Committee's Reporting Options - Amendments

Question	Answer
<b>When is an amendment applicable?</b>	It is applicable when the committee has mark up a bill that was introduced and referred to it – H.R. ___. Typically known as the “Original Text” drafted by the sponsor(s).
<b>Can the committee replace the initial bill with a substitute?</b>	<p><b>Yes.</b> If after voting, the committee agrees to an amendment in the nature of a substitute during the markup process (perhaps as amended), they may draft an entire new text of the bill different from the one introduced and referred to the committee.</p> <p><b>NOTE:</b> any committee member has the right to insist that the substitute actually be drafted and available in writing at the time it is offered.</p>
<b>Can amendments be incorporated into a single amendment in nature?</b>	<p><b>Yes.</b> IF the committee has marked up an H.R. ___ original text and agreed to several different amendments to it, with each amendment affecting a different provision of the bills, they may authorize the chair, by unanimous consent, to incorporate all amendments into a single amendment in the nature of a substitute. This will make it easier for the House when considering such in the floor to act on a single committee substitute instead of a series of discrete committee amendments.</p>

# Committee's Reporting Options – Original Bills

Question	Answer
Can committees vote on original bill text?	Yes. They may mark up a draft text (whether it be referred to as a discussion draft, chair's mark, or committee print) instead of a bill that was introduced and referred to it, and that marked-up text is reported as a bill to the House.
What is considered an "original bill"?	Only certain matters specified in <b>House Rule XIII: Examination of witnesses, clause 5<sup>1</sup></b> can be reported at any time as original bills. An example of it is noted under <i>Title III – Congressional Budget Process &gt; SEC. 315</i> which states: <i>"For purposes of a reported bill or joint resolution considered in the House of Representatives pursuant to a special order of business, the term "as reported" in this title or title IV shall be considered to refer to the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be. In the case of a reported bill or joint resolution considered pursuant to a special order of business, a point of order under section 303 shall be determined on the basis of the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be."</i>
Who reports special rules as original measures?	Most of the time, <i>the Rules Committee and the House Appropriations Committee</i> initiate the reports as they have the authority to report general appropriate bills and certain joint resolutions continuing appropriations as original bills. In addition, the House Administration Committee, the Budget Committee, and the Ethics Committee also have the authority to report original bills on particular subjects.

**1. Wrong Reference???** House Rule XIII: Examination of Witnesses clause 5 states: "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article". Sec. 315, DPG. 1126 addresses Original bill.



## Committee's Reporting Options – “Clean” Bills

Question	Answer
What is considered a “Clean” Bill?	A clean bill is a new bill that has a new number designation – H.R. ____ and that typically lists as its sponsor the committee chair, not the Member who had introduced the initial bill. [e.g., H.R. 1 (original) vs. H.R.2 (clean) option.].
Why is the bill deemed “Clean”?	A new bill is known as clean because it incorporates all the amendments that the committee adopted during its markup on the original bill. For this reason, the committee reports the new bill without amendments.
Can a committee vote on the clean bill?	<b>Yes.</b> But the committee must have the clean bill in its possession before it can vote to order the bill reported. It means that at the conclusion of the markup, the marked-up text must be prepared as a bill. Once drafted, it can be introduced while the House is in session as a newly introduced, clean bill. [This process is rare in current practices.]

## Committee's Reporting Options – Other Views

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Minority members may request the right to submit their own supplemental, minority, or dissenting views for printing as part of the committee's report on the bill in accordance with ***Clause 2 (1) of Rule XI*** which states:

*“If at the time of approval of a measure or matter by a committee (other than the Committee on Rules) a member of the committee gives notice of intention to file supplemental, minority, additional, or dissenting views for inclusion in the report to the House thereon, all members shall be entitled to 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) to file such written and signed views with the clerk of the committee.”*

This provision was originally included in section 107 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). In the 104th Congress it was amended to count as a “calendar day” any day on which the House is in session (H. Res. 254, Nov. 30, 1995, p. 35077). In the 105th Congress it was amended to reduce the guaranteed time for composing separate views from three full days to two full days after the day of notice (H. Res. 5, Jan. 7, 1997, p. 121). In the 113th Congress it was amended to clarify that notice inures to all committee members (sec. 2(f), H. Res. 5, Jan. 3, 2013, p. 26). It was amended in the 114th Congress to include dissenting views (sec. 2(a)(5), H. Res. 5, Jan. 6, 2015, p. 1). Before the House recodified its rules in the 106th Congress, paragraph (1) consisted of this paragraph and current clause 2(c) of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47).

See House Document No. 115-177 Constitution Jefferson's Manual and Rules of the House of Representatives > [HMAN-116.pdf](https://www.govinfo.gov/content/pkg/HMAN-116/pdf/HMAN-116.pdf) >  
<https://www.govinfo.gov/content/pkg/HMAN-116/pdf/HMAN-116.pdf>

# Preparing for Conference

Question	Answer
When is a House conference committee required?	When a bill is being referred to the Senate for conference, the House often agrees to a unanimous consent request that the House create a conference committee with the Senate to negotiate a compromise between their differing positions on the bill.
What happens if unanimous consent cannot be secured?	<p>The committee can obtain a special rule from the Rules Committee and/or leverage Rule XXII, clause 1 which states:</p> <p><i>“A motion to disagree to Senate amendments to a House proposition and to request or agree to a conference with the Senate, or a motion to insist on House amendments to a Senate bill or resolution and to request or agree to a conference with the Senate, shall be privileged in the discretion of the Speaker if offered by direction of the primary committee and of all reporting committees that had initial referral of the proposition (italics added).”</i></p> <p>Under the terms of the rule noted, the committee chair can make the motion on the House floor only if the committee has authorized the chair to do so. Some committees may adopt rules explicitly permitted under <b>House Rule XI, clause 2(a)(3)</b>, allowing the chair to make such a motion whenever appropriate. In that instance, they have given their chair the authorization required by clause 1 of Rule XXII in a blanket form that applies to all of the bills that the committee may order reported during the course of the Congress.</p>
What happens if the committee does not grant the chair authorization to make a motion?	The committee must agree to authorize the chair to make the motion necessary to go to conference with respect to each bill or resolution on which it may eventually want to go to conference. When the motion is adopted during the markup meeting and voted to order it reported, it avoids the need to schedule a separate meeting with the Senate.



# PROCESS ISSUES

# Issue 1: Imbalance Majority Rule



The biggest issue with this process is the fact that more often than not there is an imbalance of power among the political parties and therefore the decisions taken do not fully consider the minority party nor the will of the people.

What are the main reasons for blocking a question raised for consideration?	<p>There are two primary reasons ...</p> <ol style="list-style-type: none"><li>1) The chair usually acts <i>in support of the majority party's policy and political interest.</i></li><li>2) <i>Control of the agenda</i> is at the very heart of the powers and prerogatives <i>of the majority party in the House.</i></li></ol>
Who truly controls the outcome of the debate?	The Majority Party by using special rules to control how long Members can spend offering and debating amendments to the bills. While the minority party may be given the opportunity to offer their amendments to each section and request roll call votes on the amendments, the committee majority has the upper hand.



This is especially critical when there is outside influence of special interest and lobbyist. Due to this issue, the process often leads to fighting each other vs. resolving issues that would be best for the overall collective. In addition, it serves the majority's party-political interest which isn't always about what is best for the people, but rather their own personal interests.



## Issue 2: Legislation Development Could Lead to Oppression when the goal is tied to personal gain

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The second issue is related to the development of legislation impacting the U.S. Judicial Branch and underlying Inferior Courts. Since this process is not specific to the impeachment process, but rather the overall process within the legislative branch, the rules prescribed by which the duties and rights of every citizen is to be regulated can be easily politized to exhort control on the collective, in specific those who do not share the view of the Majority Party.



This is especially critical when there is outside influence of special interest and lobbyist. Due to this issue, the process often leads to fighting each other vs. resolving issues that would be best for the overall collective. In addition, it serves the majority's party-political interest which aren't always about what is best for the people, but rather their own personal interests and foreign alliances.

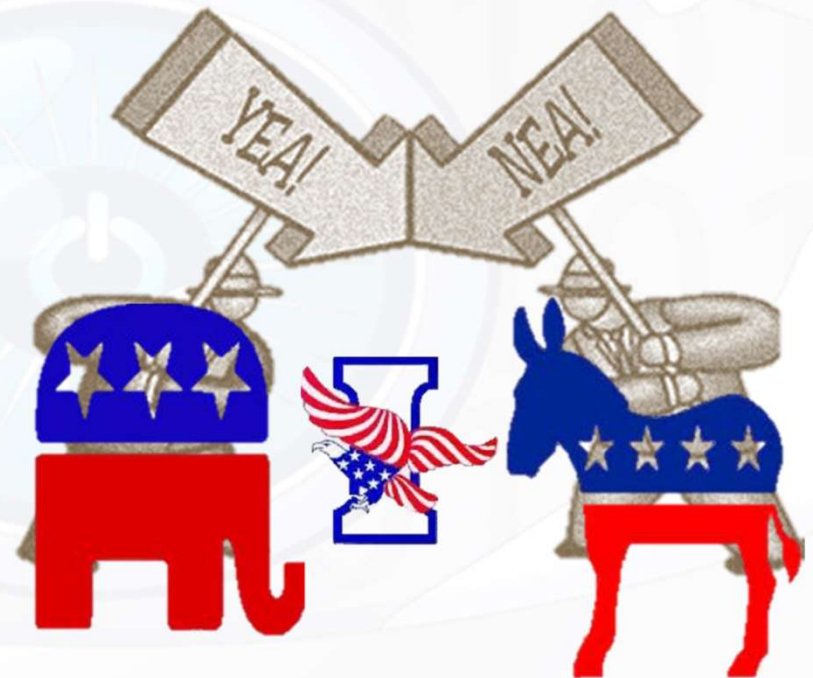


# RECOMMENDATION

# Issue 1: Imbalanced Majority Rule Recommendation

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- The U.S. Supreme Court along with Congress's Judicial Committee should work together to establish a process that reviews all legislations being drafted by either house to ensure it complies with U.S. Constitutional Laws.
- No Legislation shall be approved or passed by the house without proper input from “We The People”.
- Develop a system shall for “We The People” to vote on any legislation that is or exceeds more than One (1) million dollars of U.S. Taxpayer's dollars money. The legislations shall be open to comments for a period of sixty (60) days and cannot be passed until all concerns by the people are properly addressed.





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# DISCLAIMER / REFERENCES

# DISCLAIMER

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The content and recommendations in this presentation are based on a combination of historical and personal opinion on not only the process failures but also the issues currently faced by the U. S. Congress at the time of development.

# References

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- CRS R45769: The Impeachment Process in the House of Representatives > <https://crsreports.congress.gov/product/details?prodcode=R45769>
- CSR RL30244: The Committee Markup Process in the House of Representatives > <https://crsreports.congress.gov/product/details?prodcode=RL30244>