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THE HOUSE OF REPRESENTATIVES COMMITTEE MARKUP PROCESS

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Members of the House of Representatives introduce thousands of bills each congress, the vast majority of which receive no action after being dropped in the hopper on the House floor and referred to the relevant congressional committee(s). Committee chairs choose a relatively small portion of referred bills for potential advancement, scheduling them for markup meetings to solicit proposed changes by committee members.

Markups give committee members their most substantial opportunity to amend a draft bill on its way to the full House. The committee *marks up* the original draft language—though, somewhat confusingly, congressional committees never actually make changes to draft legislation, which only the full House can do. Instead, committee members vote on bill language and amendments that they recommend should be taken up by the full chamber. The questions during markup, then, are whether or not to report or recommend proposed amendments or changes.

Given the smaller membership of committees, markups are generally less formal than amending activity on the House floor. The rules of the House provide latitude for each committee to adopt its own rules about how to conduct its markup proceedings, so long as its activity does not directly contradict House rules, such as the requirement that proposed amendments be germane to the underlying legislation. With that said, committee markups typically adhere to a regular process.

COMMITTEE MARKUP PROCESS

1. After the committee is called to order by the chair, a quorum is established and opening statements are given, the first step in the markup process is to select the **legislative vehicle** or **base text** that the committee has chosen to mark up. The most common choice is to mark up a bill that has been referred to the committee after being introduced to the House. Alternatively, the committee may choose an unrefereed bill written by the committee's majority members. Such proposals are often referred to as a **staff draft** or the **chair's mark** in cases where the committee chair's preferred language is selected as the base text.

Markups by the full committee can also begin with a legislative proposal that has already been marked up by one or more of the committee's subcommittees. The subcommittee mark then becomes the base text for the parent committee to mark up, and subcommittee-recommended amendments generally receive priority consideration during full committee markup.

2. By rule, the entire text of a bill being considered must be read by the committee clerk. This is known as the **first reading**. Quite often, however, the first reading is dispensed with by unanimous consent or by passing a non-debatable motion to waive the first reading.

Sample Script:

Chair: I call up [bill XXX]. The bill [XXX] 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.

3. Following the first reading, the bill becomes eligible for amendment. Here, timing is paramount. Under regular order, the bill is read verbatim by the clerk, section by section (title by title for larger bills), and members may only offer amendments to the section that has just been read—they may not offer amendments to unread sections or to previously read sections. After all amendments to the first section have been considered, the chair directs the clerk to read the second section, and amendments are then eligible for the second section. This process continues until the last amendment is considered for the bill's last section.

Again, as a time saving mechanism, unanimous consent is often granted to dispense with the requirement that each section is read verbatim. For shorter bills, the chair often will ask for unanimous consent that all sections of the bill be considered read, effectively making the entire bill eligible for amendment. For longer measures, unanimous consent is regularly granted title by title to allow amendment activity on larger chunks of the base text. It is important to note that unless unanimous consent is granted, the bill is required to be read section by section, line by line, prior to any markup activity.

4. Amendments are generally offered in a similar order. For each section open to amendment, the chair typically first grants consideration to any reported amendments from a subcommittee markup. The chair then recognizes the senior member of the majority party to offer an amendment to the eligible section, then to the senior member of the minority party. Recognition then alternates by party in order of seniority.

By House rules, each offered amendment is required to be distributed to members in writing prior to consideration. Additionally, prior to any debate, each offered amendment is required to be read in full by the clerk, though the reading can be dispensed with by unanimous consent.

Sample Script:

Chair: The bill [XXX] is now open for amendment. Without objection, the bill [XXX] shall be considered as read. The clerk shall report Section 1 of the bill.

Chair: Is there an amendment to Section 1?

Member: Madam Chair, I have an amendment.

OR

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

Member: I have an amendment to Section 7.

Chair: The clerk shall report the amendment.

5. Offered amendments are debated under the five-minute rule, with the amendment's sponsor recognized first for five minutes. The chair then recognizes an opponent of the amendment for five minutes, after which each committee member is eligible to speak on the amendment for five minutes, typically in order of seniority, alternating by party.

Sample Script:

Member: I have an amendment.

Chair: The clerk shall report the amendment.

Clerk reads amendment

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 support of her amendment for five minutes

Chair: The time of the gentlelady has expired. Is there further discussion?

6. There are two non-debatable motions available to end debate on an offered amendment and expedite markup proceedings, each with its own effects. The first motion is a **motion to close debate**. As the name suggests, if passed, this motion ends debate on a pending amendment, a full title or section of a bill, or the entire bill (assuming the bill has been read or the reading has been dispensed with) at a given time or after an identified length of time. While its passage ends debate it *does not* preclude the introduction of additional amendments—they just cannot be debated prior to voting, unless unanimous consent is granted. The primary advantage of the motion to close debate is that it is in order under many circumstances and it ends debate on entire sections of a bill.

The second way to end debate is a **motion to order the previous question**. If adopted, this motion cuts off debate on a pending amendment *and* precludes the introduction of any additional amendments within the eligible section. Importantly, the previous question cannot be ordered on entire

sections or titles, but rather only to a pending amendment. The primary advantage of this motion is that it immediately concludes debate while blocking future amendment introductions. This motion is often used by the majority to end markup proceedings, particularly after a bill reading has been dispensed with by unanimous consent, which makes the entire bill eligible for amendment.

Sample Script:

*Member: **I move to close debate** on Section 1 and all amendments and motions relating thereto in 30 minutes.*

OR

*Member: Mister Chairman, **I move the previous question** on the amendment.*

Chair: The question is on ordering the previous question on the pending amendment. All those in favor, say "aye." All those opposed, say "no." In the opinion of the chair, the ayes have it and the previous question is ordered on the amendment.

7. Following the debate and votes on the last proposed amendment, the committee votes to report the bill and any agreed-upon amendments for consideration by the full House. Committees have several reporting options, including favorably, unfavorably or adversely, or without recommendation. Again, the committee does not vote to pass the measure or its amendments, but simply to determine whether or not to report them to the chamber for consideration.

CONCLUSION

Committee markups are a valuable opportunity for committee members to debate legislation before their panel. The sessions typically offer a less formalized, less contentious avenue for members of both parties to improve measures before their panel, or force action and votes on policy preferences via the amendment process. Because of this rare amending opportunity, there are common strategies and tactics used by the majority and minority to force the hand of the opposition. A few of these tactics will be discussed in a subsequent committee markup explainer.

CONTACT US

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