



The Motion to Recommit in the House: The Minority's Motion

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Summary

Recommittal motions can take one of two forms: a *simple* (or “straight”) motion to recommit or a motion to recommit *with instructions*. Bills and conference reports can be recommitted, but the motion to recommit does not have the same effect on measures at both stages of the legislative process.

A *simple* motion to recommit a bill gives the minority party a final opportunity to “kill” a measure before the House votes on whether to pass it. When the House adopts a simple motion, the underlying bill goes back to committee and is considered to have been rejected by the House. A simple motion to recommit a conference report proposes to return the report to conference, but does not necessarily “kill” the bill in question.

A motion to recommit a bill *with instructions* provides the minority a last chance to amend a bill before the House votes on its passage. When the House recommits a bill with instructions, the measure goes back to committee, but typically with binding directions that the committee report the bill back to the House instantaneously with an amendment that is included in the instructions. The recommitment of a conference report with instructions returns the report to conference with non-binding directions to the House conferees only (e.g., to insist on disagreeing to a specific Senate amendment). Most motions to recommit bills and conference reports contain instructions.

The motion to recommit is in order in the House, but not in the Committee of the Whole. The motion must be offered after the previous question has been ordered, but before the vote on passing a bill or agreeing to a conference report. Debate is allowed only on motions to recommit *with instructions* that are offered to *bills and joint resolutions*. Debate is not permitted on *simple* motions or on any motions to recommit conference reports, except by unanimous consent. The House must approve the motion by a simple majority vote. From the 101st Congress through the 109th Congress, the House adopted 7.6% of all motions to recommit.

In modern House practice, the right to offer the motion to recommit is the prerogative of a minority party Representative who is opposed to the underlying measure. Until the 104th Congress, however, House precedents only guaranteed the minority’s right to offer a *simple* motion to recommit. The House Rules Committee was allowed to report “special rules” that limited or prohibited instructions in motions to recommit.

Since the beginning of the 104th Congress, the Rules Committee has been prohibited from reporting any special rules that restrict or preclude instructions in motions to recommit offered to *bills and joint resolutions*, provided the motion is “offered by the minority leader or his designee.”

This report will be updated at the end of each Congress.

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Introduction

The right to make motions to recommit in the contemporary House of Representatives is the prerogative of the minority party. The motion is in order in the House, but not in the Committee of the Whole (formally, Committee of the Whole House on the State of the Union). A motion to recommit must be offered after the previous question is ordered on a measure, but before the vote on final passage takes place. When a measure is called up under a “special rule” that orders the previous question in advance through final passage, the rule expressly protects the right to move to recommit.

In practice, a recommittal motion typically is offered after engrossment and third reading of the measure. Only one valid motion can be offered, and it can take one of two forms: a *simple* (or “straight”) motion, or a motion *with instructions*. Both forms have equal privilege on the House floor, but differ in how they affect the underlying measure.

This report discusses the two forms of recommittal motion, relevant rules of the House, the minority’s prerogative to offer the motion, and procedures for disposing of motions to recommit. The report emphasizes motions to recommit *bills* and *conference reports* because they represent the overwhelming majority of all recommittal motions each Congress. Data on motions to recommit made from the 101st Congress through the 109th Congress are presented in tables throughout the report.¹ Motions that were offered and then ruled out of order are not counted in these data. The appendix provides information about the recommittal motions that the House *adopted* between 1989 and 2006.

Application of Recommittal Motions to Different Types of Measures

In general, motions to recommit can be offered during initial House floor consideration of bills and most resolutions, and sometimes conference reports as well. The motion is out of order, however, when measures are called up under the “suspension of the rules” procedure.

Table 1 below shows data on the different types of measures that to which motions to recommit were offered from the 101st Congress through the 109th Congress. The largest number of recommittal motions were offered to bills and conference reports, respectively.

¹ The data were for the 101st-104th Congresses were gathered by searching the “Legis” and “Congressional Record” files of House Information Resources (HIR) for references to the motion to recommit in the House. A technical problem with the “Congressional Record” files caused information from July 1996 to the end of the 104th Congress to be missing; for this time period only the “Legis” files were searched. The data for the 105th Congress and the first session of the 106th Congress were gathered from searches of the Legislative Information System (LIS) and the Lexis database. The data for the remainder of the 106th and all of the 107th, 108th, and 109th Congresses were gathered from the LIS database.

**Table 1. Types of Measures to Which Motions to Recommit Were Offered
(101st Congress to 109th Congress)**

Congress	House Bill	Conf. Rept.	H.J.Res.	H.Res.	H.Con.Res.	S.J. Res.	Totals
101 st	19	8	1	1	1	1	31
102 nd	48	15	1	0	0	0	64
103 rd	53	14	1	2	0	0	70
104 th	55	20	8 ^a	0	0	0	83
105 th	31	8	2	5	0	0	46
106 th	38	8	1	1	0	0	48
107 th	47	1	1	1	0	0	50
108 th	49	9	4	1	0	0	63
109 th	54	3	0	2	0	0	59
Totals	394	86	19	13	1	1	514

Source: Compiled by CRS.

a. Five of these were continuing appropriations joint resolutions for FY1996.

While the remainder of this report concentrates on motions to recommit *bills and conference reports*, there are some restrictions on moving to recommit other types of measures:

- Simple resolutions: It is not in order to move to recommit a resolution on the order of business (usually called a “rule” or “special rule”) reported by the House Rules Committee.
- Concurrent resolutions: Section 305(a) of the Congressional Budget and Impoundment Control Act of 1974, as amended, forbids motions to recommit from being offered to concurrent budget resolutions or conference reports on them.
- Joint resolutions: The House sometimes acts on joint resolutions to disapprove or approve of specific executive actions under the terms of special expedited or “fast-track” procedures that may prohibit the offering of recommittal motions to those resolutions.²

² For example, this prohibition appears in the District of Columbia Home Rule Act, the Pension Reform Act, and others. The rule-making provisions of these and other congressional disapproval statutes are included in U.S. Congress, House, *Constitution, Jefferson's Manual and the Rules of the House*, H. Doc. 108-241, 109th Cong., 2nd sess. (Washington: GPO, 2005), sec. 1130, pp. 1059-1231.

Motions to Recommit Measures During Initial Floor Consideration

Both forms of the motion to recommit³—simple and with instructions—propose to send a bill (or other measure)⁴ back to a House committee, typically the committee that originally reported the measure (the “reporting committee”).⁵

A *simple* motion to recommit a bill gives the minority a final opportunity to reject that measure. The motion proposes only to return the bill to the committee that had reported it. When the House adopts a simple recommittal motion, the underlying bill goes back to committee and is considered to have been rejected by the House. The simple motion gives the House an indirect way to “kill” a bill instead of voting directly on its final passage.

By contrast, a motion to recommit *with instructions* provides the minority a last chance to amend a bill. A recommittal motion in this form proposes to send the bill back to committee and also to instruct the committee as to what additional action on the bill it should take. Most often, these instructions direct the committee contain an additional amendment to the bill. Thus, the mover of a recommittal motion with instructions seeks not to “kill” the underlying bill, but to change it to conform more fully with his or her policy views. These policy views are generally those advocated by the minority party.

Most recommittal motions *with instructions* order the committee to report the bill back to the House “forthwith” with an amendment. These “amendatory instructions” contain the text of the proposed amendment. In this form, a recommittal motion gives the committee no discretion and no time in which to act. The committee must return the bill to the House with the amendment immediately. Consequently, when the House adopts a recommittal motion *with amendatory instructions*, the underlying bill is not actually sent back to committee. Instead, the chairman of the committee specified in the motion takes the floor and, on behalf of the committee, immediately reports the measure back to the House with the amendment set forth in the instructions.

At this point, the bill is before the House once again, and the amendment contained in the instructions is the pending question for the House to decide. So the House proceeds to vote on the amendment. If the amendment is adopted, the House then votes on whether to pass the bill as it now has been amended. (See the “Recommittal of a Bill: A Case Study” section for an illustration of these procedures in practice.)

³ All the principles discussed in this section also govern motions to recommit joint resolutions, concurrent resolutions, and simple resolutions.

⁴ References to bills in this and later sections of this report apply equally to joint, concurrent, and simple resolutions, unless otherwise noted.

⁵ The recommittal motion also can propose sending the bill to a select committee established by the motion itself. For example, in the 102nd Congress, the motion to recommit with instructions offered to H.R. 3732 (Budget Process Reform Act of 1992) sought to send the bill “to a Select Committee on Reform to be composed of ten Members of the House to be appointed by the Speaker....” The motion failed by a vote of 162-262. See *Congressional Record*, vol. 138, March 31, 1992, pp. 7441-7442.

Table 2 below presents data on motions to recommit bills from the 101st Congress through the 109th Congress. The overwhelming majority (88%) of the motions *offered* contained instructions, as did all the motions that the House *adopted*.

**Table 2. Motions to Recommit Bills, Offered and Adopted
(101st Congress to 109th Congress)**

Congress	Motions Offered to Recommit Bills			Motions Adopted to Recommit Bills ^a	
	Total	With Instructions	Simple	Total	Adoption Rate (%)
101 st	19	13	6	3	16
102 nd	48	33	15	6	13
103 rd	53	43	10	6	11
104 th	55	46	9	3	5
105 th	31	26	5	2	6
106 th	40	39	1	3	7.5
107 th	49	49	0	2	4
108 th	54	53	1	1	1.9
109 th	56	53	3	0	0
Totals	405	355	50	26	6.4%

Source: Compiled by CRS.

a. All the *adopted* motions to recommit bills contained instructions.

Restrictions on Amendatory Instructions

Motions to recommit bills with *amendatory instructions* cannot propose an amendment that would not have been in order if it had been offered directly as an amendment to the bill.⁶ For instance, amendatory instructions must be germane to the underlying measure. To cite one example from the 103rd Congress, a motion to recommit H.R. 3221 (Iraq Claims Act) with amendatory instructions was ruled out of order because the amendment contained in the instructions was not germane to the underlying bill. The chair explained that the instructions proposed adding language that would change immigration law, a subject that was not addressed in the underlying bill.⁷

Amendatory instructions also cannot propose to strike out an amendment that the House already has adopted; this is consistent with the principle that an amendment cannot be amended after having been adopted. By the same token, the instructions cannot propose to amend a portion of

⁶ The information presented in this section draws upon relevant House precedents discussed in the chapter on “Refer and Recommit” in U.S. Congress, House of Representatives, *House Practice: A Guide to the Rules, Precedents and Procedures of the House*, by Wm. Holmes Brown and Charles W. Johnson, 108th Cong., 1st sess. (Washington: GPO, 2003), pp. 803-816, and in the Parliamentarian’s annotations in *House Rules and Manual*, pp. 783-789.

⁷ See *Congressional Record*, vol. 140, April 28, 1994, p. 8803.

the bill that the House already has amended in its entirety; this reflects the principle that it is not in order to propose to amend only amended text. The amendment in a recommittal motion can, however, propose (and often has proposed) an amendment that was earlier rejected by the Committee of the Whole or the House.

When the House adopts an amendment in the nature of a substitute reported by the Committee of the Whole (i.e., a completely new version of the bill), this action could preclude a recommittal motion from including amendatory instructions because any amendment would propose to reamend some portion of the bill that the House already has amended. For this reason, whenever a special rule anticipates that the House will consider an amendment in the nature of a substitute, the special rule almost always provides explicitly for a motion to recommit “with or without instructions.”

If the House considers a bill under a special rule, amendatory instructions in the recommittal motion must conform with any other relevant provisions of that resolution. For example, if the special rule prohibits amendments to Title II of the bill in both the Committee of the Whole and the House, it would be out of order to move to recommit the bill with instructions to amend Title II. Amendatory instructions also must abide by certain rule-making provisions of law, such as certain provisions in the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344, 88 Stat. 297-339, as amended).

When the underlying measure is a *general appropriations bill*, a motion to recommit *with amendatory instructions* must comply with other applicable House rules.⁸ Most important, the instructions cannot violate House Rule XXI, clause 2 which prohibits amendments to general appropriations bills from containing legislative language or making unauthorized appropriations.

While most instructions are amendatory, some recommittal motions contain non-amendatory instructions, such as directing a committee to hold a hearing or to conduct a study.⁹ If the House recommits a bill with non-amendatory instructions, the measure is returned to the designated committee for action as specified in the instructions. The committee’s work is confined to the scope of the instructions.

Recommittal of a Bill: A Case Study

In the 104th Congress, Representative Edward Markey moved to recommit H.R. 1555 (Communications Act of 1995) *with amendatory instructions* directing the Committee on Commerce to report the bill back to the House “forthwith” with an amendment. The House adopted this recommittal motion by a vote of 224-199.

The amendatory instructions in Representative Markey’s motion proposed adding a new section to H.R. 1555. This new section required, among other things, that television sets manufactured in

⁸ The term “general appropriations” encompasses the regular annual appropriations bills and measures making supplemental appropriations for two or more agencies (or purposes), but not continuing appropriations or supplemental appropriations for a single agency or purpose. For further information, see House Practice, “Appropriations” chapter, sec. 6, pp. 78-79.

⁹ Some examples of non-amendatory instructions are cited in *House Practice*, “Refer and Recommit” chapter, sec. 17, p. 803.

or imported to the United States be equipped with a program-blocking technology called the “v-chip” (formally, the “violence chip”). Earlier, Representative Markey had offered this identical section as an amendment in the Committee of the Whole. The Committee of the Whole, however, adopted a substitute for the Markey amendment. The substitute amendment, offered by Representative Tom Coburn proposed a policy alternative that did not include the “v-chip” requirement. The Committee of the Whole then adopted the Markey amendment as amended by the Coburn substitute.

As a result, there was no direct vote during the amending process in Committee of the Whole on the “v-chip” mandate proposed in the original Markey amendment (i.e., the amendment as offered by Representative Markey, not the version as amended by the Coburn substitute). Representative Markey secured this “up-or-down” vote in the House by offering a motion to recommit H.R. 1555 to the Committee on Commerce with instructions that the bill be reported back forthwith with an amendment containing the text of the original Markey amendment. After the House adopted this motion to recommit, Chairman Bliley reported the bill back to the House on behalf of the Commerce Committee with the amendment contained in the motion’s instructions. The House then approved the amendment. Finally, the House then passed H.R. 1555, which at that point contained both the text of the Coburn substitute as well as the text of the original Markey amendment.

This example illustrates how the minority party can use the motion to recommit *with instructions* to secure a House vote on its policy alternative. It also shows the effect of a rules change made at the beginning of the 104th Congress (and discussed in detail later in this report) that guarantees the minority’s right to offer a motion to recommit *with instructions* to a bill or joint resolution. Before this rules change, the special rule governing a bill such as H.R. 1555 could have prohibited or limited the instructions that could be contained in a motion to recommit.

The following excerpts from the *Congressional Record* of August 4, 1995, show the parliamentary language used, and the procedural steps that occurred, during and immediately after the House’s consideration of Representative Markey’s motion to recommit with instructions:¹⁰

THE SPEAKER pro tempore. Under the rule, the previous question is ordered.

Under the order of the House of the legislative day of August 3, 1995, the amendment reported from the Committee of the Whole is adopted. No separate vote is in order.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. MARKEY. Mr Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MARKEY. I am opposed to the bill Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

¹⁰ *Congressional Record*, vol. 141, Aug. 4, 1995, pp. 22080-22084.

[After the Clerk reported the motion, Representative Markey was recognized for five minutes of debate. A Member opposed to the motion was then recognized for the same amount of time. At the conclusion of debate, the previous question on the recommittal motion was ordered. After putting the motion to a voice vote, the Speaker pro tempore announced that the noes appeared to have it, so Representative Markey demanded a record vote. The House then adopted the motion to recommit, 224 to 199, after which the Speaker pro tempore recognized Representative Bliley, chairman of the Committee on Commerce.]

Mr. BLILEY. Mr. Speaker, pursuant to the instructions of the House, I report the bill, H.R. 1555, back to the House with an amendment.

The SPEAKER PRO TEMPORE. The Clerk will report the amendment.

[The Clerk began reading the amendment (i.e., the amendment proposed in Representative Markey's motion to recommit with instructions). At Representative Bliley's request, and without objection, the amendment was considered as read and printed in the *Congressional Record*.]

The SPEAKER PRO TEMPORE. The question is on the amendment. The amendment was agreed to.

[Third reading and engrossment of the bill then took place, followed by a record vote on the bill's final passage. H.R. 1555, amended as a result of the motion to recommit with instructions, was passed, 305-117.]

Motions to Recommit Conference Reports

Motions to recommit conference reports also can be either simple motions or motions containing instructions. However, motions to recommit conference reports do not have the same purpose or effect as motions to recommit measures during their initial House floor consideration. A *simple* motion to recommit a conference report proposes only to send the report back to conference for further negotiation; adopting this motion does not necessarily "kill" the bill.

A motion to recommit a conference report *with instructions* also seeks to return a report to conference for further negotiation, but it also proposes to instruct the House conferees (also referred to as "managers") as to what they should try to achieve during these negotiations.¹¹ Most commonly, the instructions enjoin the House conferees to insist on the House position on a certain issue or to disagree to a certain Senate position. The instructions are advisory in nature; they are not binding on the House conferees. A Representative cannot make a point of order against a conference report on the ground that it is inconsistent with instructions that the House had given to its conferees.

Also, the instructions must stay within the scope of differences between the House and Senate positions in the conference. For example, in the 102nd Congress, a motion to recommit the conference report on S. 3 (campaign finance reform legislation) was ruled out of order because its instructions directed the House conferees to include in the conference report three provisions that went beyond the scope of the differences between the House and Senate versions of the bill. A

¹¹ The instructions are directed only to the House conferees, not to the conference committee as a whole, because the House cannot instruct a committee some of whose members are Senators.

new recommittal motion then was proposed with instructions that remained within the scope of differences. This second motion was defeated.¹²

Instructions in motions to recommit conference reports never direct conferees to report back to the House “forthwith,” as motions to recommit bills with amendatory instructions almost always do. The reason lies in the fact that the House cannot instruct a committee comprising Representatives as well as Senators. A conference report can come to the House floor only after a majority of the House conferees and a majority of the Senate conferees have signed it and the accompanying joint explanatory statement.

When the House adopts a motion to recommit a conference report (simple or with instructions), the House conferees “carry the original papers back to conference” and the “same conferees remain appointed.”¹³ If a new conference report is later filed, it receives a new number and can be subjected to another motion to recommit.

A motion to recommit a conference report is in order on the House floor only if the Senate has not acted on the report.¹⁴ Once the Senate acts on a conference report, the Senate conferees are discharged so there is no conference committee to which the report can be recommitted. At this point, the House can vote only to accept or reject the conference report. Also, a motion to recommit a conference report can be offered only after the previous question has been ordered on the report. In some cases, the House has recommitted a conference report by unanimous consent.¹⁵

Table 3 provides data on motions to recommit conference reports from the 101st Congress through the 109th Congress. The overwhelming majority (85%) of motions *offered* to recommit conference reports contained instructions. The House adopted only one simple motion to recommit a conference report during the 17-year period.¹⁶ There were instructions included in all the other recommittal motions that the House adopted.

¹² See *Congressional Record*, vol. 138, April 9, 1992, p. 9021-9023.

¹³ *House Practice*, “Conferences Between the Houses” chapter, sec. 35, p. 329.

¹⁴ On this and other precedents relating to conference reports, see the section on “Conferences Between the Houses,” in *House Practice*, pp. 329-362.

¹⁵ For example, in the 103rd Congress, a simple motion to recommit the conference report on H.R. 3355 (a bill amending the Omnibus Crime Control and Safe Streets Act of 1960) was adopted by unanimous consent. The Majority Leader offered this motion eight days after the House defeated a special rule providing for the conference report’s consideration.

¹⁶ See note 15.

Table 3. Motions to Recommit Conference Reports, Offered and Adopted (101st Congress to 109th Congress)

Congress	Motions Offered to Recommit Conference Reports			Motions Adopted to Recommit Conference Reports	
	Total	With Instructions	Simple	Total	Adoption Rate (%)
101 st	8	5	3	1	13
102 nd	15	12	3	4	27
103 rd	14	11	3 ^a	4	29
104 th	20	17	3	3	15
105 th	8	7	1	0	0
106 th	8	8	0	0	0
107 th	1	1	0	0	0
108 th	9	9	0	0	0
109 th	3	3	0	0	0
Totals	86	73	13	12	14%

Source: Compiled by CRS.

- a. This number includes a simple motion to recommit which the House amended to include instructions. This motion was offered during consideration of the conference report on H.R. 2445 (the energy and water development appropriations bill for FY1994). For further information, see the discussion of this case in the section of this report on “Amendments to the Motion.”

Recommittal of a Conference Report: A Case Study

In the 104th Congress, the House recommitted with instructions the first two conference reports on H.R. 1977 (the interior appropriations bill for FY1996). The House later approved the third conference report on this bill.

The first motion to recommit instructed the House conferees to insist on the House position on Senate amendment 158. This amendment ended a one-year freeze on the transfer of federal lands to mining companies. The House-passed version of H.R. 1977 extended this one-year freeze for an additional year. When the House agreed to the Senate’s request for a conference on H.R. 1977, it instructed the House conferees by voice vote to insist on the House’s “pro-freeze” position. However, the House managers, however, did not uphold the House position in conference; the first conference report on the bill (H.Rept. 104-259) came to the House floor with the Senate language intact. Representative Sidney Yates, ranking minority member of the Interior Appropriations subcommittee, moved to recommit the conference report with the instructions mentioned above. The motion was adopted, 277 to 147, with the support of 91 majority Members, including the bill’s majority floor manager.¹⁷

¹⁷ See *Congressional Record*, vol. 141, Sept. 29, 1995, pp. 26940-26941.

One month later, the conferees approved a second conference report on H.R. 1977 (H.Rept. 104-300). While this report included the House's "pro-freeze" position, it added the condition that this freeze would end if Congress approved legislation revising the Mining Law of 1872. (This mining legislation was in the conference report on the budget reconciliation bill that was scheduled to receive House floor consideration in several days.) When the new conference report on H.R. 1977 came to the House floor, Representative Yates moved to recommit the report with instructions. These instructions directed the House conferees to insist not only on the House position on Senate amendment 158 (i.e., with no conditions) but also on Senate amendment 108. This second Senate amendment allowed the Forest Service to sell more timber land in the Tongass National Forest. The House adopted the motion to recommit, 230 to 199, with the support of 48 majority Members.¹⁸

The conference committee reconvened for a third time and filed a new conference report (H.Rept. 104-402) nearly one month later. This third conference report extended the one-year freeze without conditions and contained a compromise on the Tongass National Forest issue. In explaining the third conference report, Representative Ralph Regula (majority floor manager for the report) told the House: "[t]he important thing I want to emphasize...is that we responded to the motion to recommit." After the previous question was ordered on the conference report, Representative Yates once again moved to recommit the report with instructions. This time, he proposed instructions that the House conferees insist on the House position regarding the Tongass National Forest. The House rejected this motion, 187-241, and then adopted the conference report, 244-181.¹⁹

These examples of recommitting a conference report in the House illustrates how motions to recommit with instructions can affect conference committee negotiations. The House recommitting the first two conference reports on H.R. 1977 for the same reason—the conference's rejection of the House position on Senate amendment 178. In doing so, the House sent the message that its adoption of the conference report required conference approval of the House position on that Senate amendment. While the instructions in the successful recommitment motions applied only to House conferees, they influenced the work of the conference committee as a whole.

Rules of the House Governing Motions to Recommit

Motions to recommit are governed by both Rule XIX, clause 2, and Rule XIII, clause 6(c)(2). Rule XIX, clause 2(a), provides that "[a]fter the previous question has been ordered on the passage or adoption of a measure, or pending a motion to that end, it shall be in order to move that the House recommit (or commit, as the case may be, the measure, with or without instructions, to a standing or select committee. For such a motion to recommit, the Speaker shall give preference in recognition to a Member, Delegate, or Resident Commissioner who is opposed to the measure." (Paragraphs (b) and (c) of the same clause govern debate on motions to recommit; see the discussion of "Debate on the Motion".)

¹⁸ See *Congressional Record*, vol. 141, Nov. 15, 1995, pp. 32625-32626.

¹⁹ See *Congressional Record*, vol. 141, Dec. 13, 1995, p. 36322-36323.

Rule XIII, clause 6(c)(2), as amended in 1995, states that the Committee on Rules shall not “report a rule or order which would prevent the motion to recommit a bill or joint resolution from being made as provided in clause 2(b) of rule XIX, including a motion to recommit with instructions to report back an amendment otherwise in order, if offered by the Minority Leader or a designee, except with respect to a Senate bill or resolution for which the text of a House-passed measure has been substituted.” The next section of this report discusses the changes made to this rule at the start of the 104th Congress.

Offering the Motion to Recommit: The Minority's Prerogative

In modern House practice, offering the motion to recommit is the prerogative of a member of the minority party. This has not always been the case, however. Before 1909, the recommittal motion was typically reserved for a Representative “friendly” to a measure (typically the majority floor manager) “for the purpose of giving one more chance to perfect it, as perchance there might be some error that the House desired to correct.”²⁰ In 1909, the House amended what is now Rule XIX, clause 2(a), to add the language directing the Speaker to give preferential recognition for offering the motion to recommit “to a Member, Delegate, or Resident Commissioner who is opposed to the measure.”²¹ By 1932, House precedents interpreting this rule firmly established that preferential recognition should be given to a minority party Member opposed to the underlying measure.²²

From 1934 to the start of the 104th Congress, however, separate precedents held that the minority was only guaranteed the right to offer a simple motion to recommit.²³ These precedents interpreted clause 6 of Rule XIII as allowing the Rules Committee to report a special rule that prevented or limited the inclusion of instructions in a motion to recommit a bill or joint resolution. Because there were no recorded votes in the Committee of the Whole until 1971, a recommittal motion *with amendatory instructions* provided the only certain means for the minority to obtain a recorded House vote on its policy alternative.²⁴ Before 1971, a special rule restricting amendatory instructions took away this minority tool for obtaining recorded votes, or limited the minority's ability to use that tool as it saw fit.

In the late 1980s and early 1990s, the Rules Committee increasingly issued special rules that limited the offering of floor amendments in the Committee of the Whole (so-called “restrictive rules”).²⁵ In some of these situations, the Republican minority's only opportunity to propose an

²⁰ U.S. Congress, House, *Hinds' and Cannon's Precedents of the House of Representatives*, (Washington: GPO, 1907 and 1936), vol. VIII, sec. 2762.

²¹ The House agreed to this rules change as part of the resolution adopting the chamber's rules for the 61st Congress. This resolution also amended what now is Rule XIII, clause 6(c)(2), to prohibit the Rules Committee from reporting a special rule that prevented the offering of a motion to recommit as provided in Rule XIX.

²² Statement of (name redacted), Congressional Research Service, in: U.S. Congress, House Subcommittee on the Rules of the House, *Roundtable Discussion on the Motion to Recommit*, subcommittee print, 102nd Cong., 2nd sess. (Washington: GPO, 1992), p. 18.

²³ These precedents are noted in *House Rules and Manual*, sec. 859, p. 636.

²⁴ An amendment was added to the Legislative Reorganization Act of 1970 (P.L. 91-510, 84 Stat. 1140) to authorize recorded votes in the Committee of the Whole.

²⁵ Data on restrictive rules from the 95th through 101st Congresses are provided in *Roundtable Discussion on the Motion* (continued...)

amendment was through offering a motion to recommit with amendatory instructions. When a restrictive special rule also prohibited instructions in the recommittal motion, the minority sometimes was effectively blocked from offering its most important amendments.²⁶ During the 101st through the 103rd Congresses, the Republican minority began to challenge the House precedents allowing the Rules Committee to report special rules that only permitted a simple motion to recommit.²⁷ Each challenge, however, resulted in the earlier precedents being sustained.

When the Republican party took control of the House in the 104th Congress, the House amended its rules to preclude the Rules Committee from reporting a special rule that prevents or limits the minority from offering a recommittal motion with instructions to a bill or joint resolution. This rules change added the following new language to the last sentence of Rule XIII, clause 6(c)(2), concerning motions to recommit bills and joint resolutions:

... including a motion to recommit with instructions to report back an amendment otherwise in order, if offered by the Minority Leader or a designee, except with respect to a Senate bill or resolution for which the text of a House-passed measure has been substituted

With the addition of this language, the House's rules explicitly recognize the minority's prerogative to offer a motion to recommit, with or without instructions, to *bills and joint resolutions*.

To summarize the situation in today's House, the following principles govern preferential recognition for offering recommittal motions:

- The Speaker first looks to the Minority Leader or his designee. Thereafter, under House precedents, the Speaker gives preferential recognition "to minority members of the committee reporting the bill in their order of seniority on the committee, then to other members of the minority, and finally to majority members opposed to the bill."²⁸
- The Speaker gives preferential recognition to a Member who is opposed to the underlying measure. When a Member seeks recognition to offer a recommittal motion, the Speaker asks: "Is the gentlewoman (gentleman) opposed to the measure?" Once the Representative answers affirmatively, the Speaker neither examines "the degree of that Member's opposition" nor does he distinguish between opposition "to the bill in its present form" and a more fundamental opposition.²⁹

(...continued)

to Recommit, p. 122.

²⁶ Ibid., p. 92 and pp. 141-148.

²⁷ *House Rules and Manual*, sec. 859, p. 636.

²⁸ *House Practice*, sec. 14, p. 811.

²⁹ Ibid.

Consideration of the Motion to Recommit

Debate on the Motion

Debate is not allowed on a *simple* motion to recommit, except by unanimous consent. For motions to recommit *with instructions*, House Rule XIX, clause 2(b), allows ten minutes of debate if the motion is offered to a *bill or joint resolution* (no debate is permitted on recommittal motions *with instructions* that are offered to other types of measures). Under clause 2(c) of the same rule, the ten minutes of debate can be extended to one hour upon the demand of the majority floor manager. When this demand is anticipated, the special rule governing the measure's floor consideration may specify that the recommittal motion with instructions shall be debatable for one hour.³⁰ Debate time, whether ten minutes or one hour, is equally divided between the mover of the motion and a Member opposed to the motion (usually the majority floor manager).

Points of Order

The chair rules on whether a motion to recommit is in order only in response to a point of order that the motion violates a House rule or precedent or a provision of a rule-making statute or a special rule. A Member may make or reserve such a point of order immediately after the recommittal motion is read (or after the reading has been dispensed with by unanimous consent). In situations where debate on the recommittal motion is permitted, the point of order must also be made before debate on the motion begins.

In nearly all situations, the chair decides whether to sustain or to overrule the point of order (an exception is discussed below). If the chair overrules the point of order, the House proceeds to consider the recommittal motion.³¹ If the point of order is sustained, a new motion to recommit can be offered if it is offered in a timely fashion. The same principles also apply to points of order raised against amendments to motions to recommit (as discussed in the next section).

A special procedure is used for points of order raised under the Unfunded Mandates Reform Act of 1995 (P.L. 104-4, 109 Stat. 48). The chair does not rule on these points of order. Instead, the House votes on whether to consider the matter against which a point of order has been made. This vote takes place after twenty minutes of debate that is equally divided between the Member making the point of order and an opponent. The first unfunded mandates point of order was raised against a motion to recommit *with instructions* offered to H.R. 3136 (Contract With America Advancement Act) in the 104th Congress. This point of order claimed the motion's instructions contained an unfunded governmental mandate. The House voted not to consider the recommittal motion. A valid motion to recommit *with instructions* was subsequently offered and defeated.³²

³⁰ For example, in the 103rd Congress, H.Res. 132 provided for one hour of debate on a motion to recommit with instructions offered to H.R. 1335 (the Emergency Supplemental Appropriations Act of 1993). See *Congressional Record*, vol. 139, March 18, 1993, pp. 5674-5675.

³¹ Rulings of the chair on points of order can be reversed by a majority vote of the House, but in practice these rulings are seldom challenged.

³² *Congressional Record*, vol. 142, March 28, 1996, pp. 6930-6934.

Amendments to the Motion

Members do not often offer amendments to recommittal motions, either to add or to amend instructions. Such an amendment is in order only before the House votes to order the previous question on the motion. This generally leaves only three opportunities for offering an amendment, none of which arises frequently.

First, for debatable recommittal motions only, an amendment is in order once debate is completed (if the previous question has not been ordered on the motion). The mover of the recommittal motion controls the floor at this time, and only that Member can offer an amendment or yield to another Representative to do so.³³ A Member seeking to amend a motion to recommit would, therefore, have to ask the motion's mover to yield for an amendment. While the Member offering the motion has little incentive to yield for that purpose, it has happened on occasion.³⁴

Second, for both debatable and non-debatable motions to recommit, an amendment can be offered if the Member who offered the motion does not move the previous question. This is an unlikely scenario, however. The previous question motion has precedence over the motion to amend. This means that if the previous question on the recommittal motion is not moved and a Member seeks to offer an amendment to the motion, the motion's sponsor could still move the previous question and prevent House consideration of the amendment.³⁵

Last, for both debatable and non-debatable motions to recommit, an amendment can be offered if the previous question on the recommittal motion is defeated. The previous question on the recommittal motion is typically ordered without objection and without a formal vote taking place. However, a Member trying to offer an amendment could demand the yeas and nays on the motion to order the previous question. If the House rejects that motion, House precedents provide that "a Member who in the Speaker's determination led the opposition to the previous question on the motion to recommit, such as the chairman of the committee reporting the bill, is entitled to offer an amendment to the motion regardless of party affiliation."³⁶ In addition, the Member proposing the amendment "would not necessarily have to qualify as being opposed to the bill."³⁷

Debate is not permitted on an amendment to a recommittal motion, regardless of whether the underlying motion was debatable. The amendment's supporters may explain it and urge its adoption before they actually offer the amendment—for example, during whatever time may be available for debating the recommittal motion itself. Especially because the House normally must vote against ordering the previous question on the motion before any amendment to it can be offered, the amendment's proponents typically make their case in favor of the amendment in the process of urging Members to vote against the previous question.

An amendment to a recommittal motion must be germane to the underlying measure, not necessarily to the instructions contained in the recommittal motion itself. A point of order against

³³ U.S. Congress, *House, Procedure in the U.S. House of Representatives*, 97th Cong., (Washington: GPO, 1982), chap. 23, sec. 16.3-16.4, p. 366.

³⁴ For an example, see *Congressional Record*, vol. 119, July 19, 1973, pp. 24966-24968.

³⁵ U.S. Congress, *House, Deschler's Precedents of the U.S. House of Representatives*, H. Doc. 94-661, 94th Cong., 2nd sess. (Washington: GPO, 1977), vol. 7, chap. 23, sec. 25.1, p. 184.

³⁶ *House Practice*, sec. 15, p. 812.

³⁷ *Ibid.*

the amendment is timely if raised immediately after the amendment is read (or after the reading has been dispensed with by unanimous consent). If the chair sustains the point of order, another amendment to the motion can be offered unless the House then votes to order the previous question.

A *simple* motion to recommit a bill or joint resolution can be amended to change the committee(s) specified in the motion, or to add instructions to the motion. When the underlying measure is a conference report, the *simple* motion can be amended to insert instructions to the House conferees. A recommittal motion *with instructions*, whether offered to a bill or a conference report, can be amended to delete the instructions (thereby making the recommittal motion a *simple* one), or to change the instructions in part or in whole. A substitute amendment striking out all the instructions and substituting new instructions “cannot be ruled out as interfering with the right of the minority to move recommitment,”³⁸ even if it is a majority party Member who offers the substitute.

The House must approve an amendment to a recommittal motion by a simple majority vote. First, the House normally votes to order the previous question on the motion and the amendment that has been offered to it. After the previous question is ordered, the House first votes on the amendment. If that amendment is approved, the House then votes on adopting the recommittal motion, as amended.³⁹

Vote on Adopting the Motion

Adopting a recommittal motion requires only a simple majority vote of the House. When a motion to recommit is *defeated*, another one cannot be offered; only one valid motion to recommit is in order.

Table 4 below provides data on all the motions to recommit that Members offered from the 101st Congress through the 109th Congress. The data include both motions to recommit measures before initial House passage and motions to recommit conference reports. In each successive Congress except for the last one, the number of *offered* motions increased but the adoption rate did not. The Appendix provides information about the 39 motions to recommit that the House *adopted* (bill number, title, date adopted, vote results, description of instructions, and unique aspects of the motion’s disposition).

³⁸ *Hinds’ and Cannon’s Precedents*, vol. VIII, sec. 2759, p. 391.

³⁹ If a Member moves the previous question only on an amendment to a recommittal motion and the House rejects that motion, an amendment to the amendment would be in order. If the House rejects an amendment to a recommittal motion, a new amendment to the motion could be proposed if the previous question has not been ordered on the motion to recommit.

**Table 4. All Motions to Recommit Offered and Adopted
(101st Congress to 109th Congress)**

Congress	All Motions to Recommit Offered	All Motions to Recommit Adopted	Adoption Rate (%)
101 st	31	5	16
102 nd	64	10	16
103 rd	70	10	14
104 th	83	6	7
105 th	46	2	4
106 th	48	3	6.3
107 th	50	2	4
108 th	63	1	1.6
109 th	59	0	0
Totals	514	39	7.6%

Source: Compiled by CRS.

Appendix. Motions to Recommit *Adopted* by the House:

101st Congress - 109th Congress

<i>Measure to Which Motion was Offered</i>	<i>Date Approved</i>	<i>Vote Results</i>	<i>Description of Instructions (committee name noted in italics)</i>	<i>Unique Aspects of Motion's Disposition</i>
101st Congress				
H.R. 1278 Financial Institutions Reform, Recovery and Enforcement Act	6/15/89	412-7	That <i>Banking, Finance & Urban Affairs</i> report back forthwith with amendments.	
H.R. 2461 Dept of Defense Authorization Act for FY1990/91	7/27/89	176-90 (division vote)	That <i>Armed Forces</i> report back forthwith with amendments.	One hour of debate was allowed. Also, the motion's mover demanded a division vote.
H.Con.Res. 221 Support for Peace and Democracy in Central America	11/2/89	262-152	That <i>Foreign Affairs</i> report back forthwith with an amendment in the nature of a substitute (text of S. Con Res. 79).	
H.R. 5611 Armed Forces Mail	9/17/90	227-142	That <i>Post Office & Civil Service</i> report back forthwith with an amendment (to strike out all after the enacting clause and insert new text).	
Conf. Rept. on S. 2104 Bill to amend the Civil Rights Act of 1964	10/11/90	375-45	That House managers "report back a bill" which includes specific language. ^a	

Measure to Which Motion was Offered	Date Approved	Vote Results	Description of Instructions (committee name noted in italics)	Unique Aspects of Motion's Disposition
102nd Congress				
H.R. 2950 Intermodal Surface Transportation Infrastructure Act	10/23/91	Voice Vote	That <i>Public Works & Transportation</i> report back forthwith with an amendment.	
Conf. Rept. on H.R. 3337 White House Commemorative Coin Act	4/1/92	206-199	That House managers disagree to Senate amendments relating to redesign of U.S. circulating coinage.	
First Conf. Rept. on S. 3 Bill to Amend the Federal Election Campaign Act of 1971	4/8/92	408-8	That House conferees insist on certain provisions of H.R. 4104 (companion bill to S. 3).	
Conf. Rept. on S. 1306 Bill to Amend Title V of the Public Health Service Act	5/28/92	214-157	That House managers agree to section 205(f) of the Senate bill.	
H.R. 5006 Dept. of Defense Authorization Act for FY1993	6/5/92	Voice Vote	That <i>Armed Services</i> report back forthwith with an amendment to the bill.	Committee chairman spoke in favor or the motion. Also, the amendment proposed in the instructions was not allowed in Committee of the Whole under the special rule governing H.R. 5006.
H.R. 5427 Regular Legislative Branch Appropriations Bill, FY1993	6/24/92	376-45	That <i>Appropriations</i> report back forthwith with amendments.	Majority floor manager said he did not object. Also, the amendments proposed in the instructions were not allowed in the Committee of the Whole under the special rule governing H.R. 5427.

Measure to Which Motion was Offered	Date Approved	Vote Results	Description of Instructions (committee name noted in italics)	Unique Aspects of Motion's Disposition
H.R. 5368 Regular Foreign Operations Appropriations Bill, FY1993	6/5/92	329-68	That <i>Appropriations</i> report back forthwith with amendments ("strike out and insert").	Committee chairman said he did not object.
H.R. 5487 Regular Agriculture Appropriations Bill, FY1993	6/30/92	Voice Vote	That <i>Appropriations</i> report back forthwith with an amendment to strike language.	Majority floor manager announced there was no objection on his side.
H.R. 5518 Regular Transportation Appropriations Bill, FY1993	7/9/92	268-115	That <i>Public Works & Transportation</i> report back forthwith with an amendment.	An identical amendment offered by the Minority Leader was adopted in the Committee of the Whole, and then superseded by a substitute amendment under the "king-of-the-hill" special rule. The Minority Leader reoffered his Committee of the Whole amendment in a recommittal motion with instructions in order to get a clear vote on the subject matter.
Conf. Rept. on H.R. 5517 Regular District of Columbia Appropriations Bill, FY1993	9/24/92	235-173	That House managers recede from Senate amendment No. 2.	
103rd Congress				
H.R. 2295 Regular Foreign Operations Appropriations Bill, FY1994	6/17/93	Voice Vote	That <i>Appropriations</i> report back forthwith with an amendment.	Majority floor manager did not object to the motion.

Measure to Which Motion was Offered	Date Approved	Vote Results	Description of Instructions (committee name noted in italics)	Unique Aspects of Motion's Disposition
H.R. 2200 NASA Authorization Act, FY1994	7/29/93	Voice Vote	That <i>Science, Space & Technology</i> report back forthwith with an amendment.	Committee chairman rose in support of the motion.
Conf. Rept. on H.R. 2445 Regular Energy & Water Development Appropriations Bill, FY1994	10/19/93	282-143 for the amendment to the SIMPLE motion; voice vote for the motion as amended	The amendment added instructions directing the House managers to insist on disagreement to Senate amendment No. 33.	SIMPLE motion to recommit was first offered. When House defeated the previous question on this motion, a majority Member offered an amendment to add instructions to the simple motion. The House adopted this amendment, and then the motion as amended.
Conf. Rept. on H.R. 3167 Unemployment Compensation Act	11/94/93	226-202	That House managers concur in Senate amendment No. 1.	
H.R. 3221 Iraq Claims Act of 1993/94	4/28/94	Voice Vote	That <i>Foreign Affairs</i> report back forthwith with an amendment.	The first motion to recommit with instructions was ruled out of order for not being germane to the bill. Mover of this motion then offered a new motion with instructions. Committee chairman spoke in support of the new motion, which was adopted.
H.R. 4426 Regular Foreign Operations Appropriations Bill, FY1995	5/25/94	Voice Vote	That <i>Appropriations</i> report back forthwith with an amendment (to change funding levels).	Majority floor manager did not object to the motion.
H.R. 4602 Regular Interior Appropriations Bill, FY1995	6/23/94	Voice Vote	That <i>Appropriations</i> report back forthwith with amendments ("strike and insert").	

<i>Measure to Which Motion was Offered</i>	<i>Date Approved</i>	<i>Vote Results</i>	<i>Description of Instructions (committee name noted in italics)</i>	<i>Unique Aspects of Motion's Disposition</i>
H.R. 4604 Budget Control Act of 1994	7/21/94	424-0	That <i>Rules</i> report back forthwith with amendments.	Majority floor manager did not object to the motion.
Conf. Rept. on H.R. 3355 Violent Crime Control Act of 1994	8/19/94	Agreed to by unanimous consent.	SIMPLE motion.	Offered by the Majority Leader who sought to expedite disposition of the conference report. Eight days earlier, the House defeated the special rule governing the report's floor consideration.
Conf. Rept. on H.R. 4539 Regular Treasury/Postal Service Appropriations Bill, FY1995	9/22/94	234-192	That House managers insist on House position on amendment No. 52, and disagree to Senate amendment No. 29.	
104th Congress				
H.R. 1868 Regular Foreign Operations Appropriations Bill, FY1996	7/1/95	Voice Vote	That <i>Appropriations</i> report back forthwith with an amendment.	The motion's mover announced it was bipartisan and accepted by the involved committee.
H.R. 1555 Communications Act of 1995	8/4/95	224-199	That <i>Commerce</i> report back forthwith with an amendment.	See detailed discussion of this motion in the "Recommittal of a Bill: A Case Study": section of this report.
H.R. 2126 Regular Dept. of Defense Appropriations Bill, FY1996	9/7/95	Voice Vote	That <i>Appropriations</i> report back forthwith with an amendment.	Majority floor manager announced that the motion was acceptable.

Measure to Which Motion was Offered	Date Approved	Vote Results	Description of Instructions (committee name noted in italics)	Unique Aspects of Motion's Disposition
First Conf. Rept. on H.R. 1977 Regular Interior Appropriations Bill, FY1996	9/29/95	277-147	That House managers insist on the House position on Senate amendment number 158.	See detailed discussion of this motion in the "Recommittal of a Conference Report: A Case Study": section of this report.
Second Conf. Rept. on H.R. 1977 Regular Interior Appropriations Bill, FY1996	11/15/95	230-1999	That House managers insist on the House position on Senate amendments numbered 108 and 158.	See detailed discussion of this motion in the "Recommittal of a Conference Report: A Case Study": section of this report.
First Conf. Rept. on H.R. 2099 Regular VA/HUD Appropriations Bill, FY1996	11/29/95	216-208	That House managers insist on the House position on Senate amendment number 4.	
105th Congress H.R. 1758 European Security Act of 1997	6/11/97	Voice Vote	That <i>International Relations</i> report back forthwith with an amendment.	
H.R. 3494 Protection of Children From Sexual Predators Act of 1998	6/11/98	Voice Vote	That <i>Judiciary</i> report back forthwith with an amendment.	
106th Congress Conf. Rept. on H.R. 833 Bankruptcy Reform Act of 1999	5/5/99	Voice Vote	That House managers include a specific amendment in their report.	

<i>Measure to Which Motion was Offered</i>	<i>Date Approved</i>	<i>Vote Results</i>	<i>Description of Instructions (committee name noted in italics)</i>	<i>Unique Aspects of Motion's Disposition</i>
Conf. Rept. on H.R. 2031 Twenty-First Amendment Enforcement Act	8/3/99	Voice Vote	That House managers include a specific amendment in their report	
H.R. 701 Conservation and Reinvestment Act of 2000 107th Congress	5/11/00	413-3	That <i>Resources</i> report back forthwith with an amendment.	
H.R. 1542 Internet Freedom and Broadband Deployment Act of 2001	2/27/02	Voice Vote	That <i>Energy and Commerce</i> report back forthwith with an amendment.	The House amended the original motion to recommit after it defeated the previous question on the original motion to instruct. Both the amendment to the motion and the amended motion were adopted by voice vote.
H.R. 5005 Homeland Security Act of 2002 108th Congress	7/26/02	318-110	That <i>Select Committee on Homeland Security</i> report back forthwith with an amendment.	
H.R. 2844 Continuity in Representation Act of 2004	4/22/04	Voice Vote	That <i>House Administration</i> report back forthwith with an amendment.	Majority floor manager did not object to the motion.

Source: Compiled by CRS.

Notes: The motions to recommit presented in this appendix were identified by searching the “Legis” and “Congressional Record” files (101st Congress - 106th Congress, 1st Session) of the House Information Resources (HIR) for references to the motion to recommit in the House. A technical problem with the “Congressional Record” files caused information from July 1996 to the end of the 104th Congress to be missing; for this time period, only the “Legis” files were searched. For each Congress, the motions identified through the HIR searches were then verified by examining a hard copy of the *Congressional Record*. For the 106th Congress, second session through the 109th Congress, the data was obtained by searching the Legislative Information System (LIS).

The 109th Congress is not included in this list because no motion to recommit in that Congress was successful.

- a. The instructions directed the House managers to “report back a bill which includes language making it clear that businessmen/women would not have to adopt artificial hiring and promotion quotas to comply with civil rights laws; language reducing the need for further burdening the judicial system as well as language which lessens the prospect for huge damage awards.” *Congressional Record*, daily edition, vol. 136, Oct. 11, 1990, p. H9406.

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