



Amendments Between the Houses

Elizabeth Rybicki

Analyst on the Congress and Legislative Process

June 27, 2008

Congressional Research Service

7-5700

www.crs.gov

98-812

Summary

The House and Senate must approve an identical version of a measure before it may be presented for the President's approval or veto. If the House and Senate approve differing versions of a measure, the differences must first be resolved. One way to do this is through an exchange of amendments between the houses.

When the House or Senate passes a measure, it is sent to the other chamber for further consideration. If the second chamber passes the measure with one or more amendments, it is then sent back to the originating chamber. In modern practice, the second chamber often substitutes its version of a measure as a single amendment to the measure as passed by the first chamber. The first chamber then may accept the amendment or propose its own further amendment. In this way, the measure may be messaged back and forth between the House and Senate in the hope that both houses will eventually agree to the same version of a measure.

Contents

Consideration of Senate Amendments by the House..... 2
Consideration of House Amendments by the Senate..... 2

Contacts

Author Contact Information 4

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When the House or Senate passes a measure, it is sent to the other chamber for further consideration. If the second chamber passes the measure with one or more amendments, it is then sent back to the originating chamber. In modern practice, the second chamber often substitutes its version of a measure as a single amendment to the measure as passed by the first chamber. The first chamber then may accept the amendment or propose its own further amendment. In this way, the measure may be messaged back and forth between the House and Senate in the hope that both houses will eventually agree to the same version of a measure.

The House and Senate may use this method in an attempt to resolve their differences in a variety of circumstances: prior to a conference, instead of a conference, or even after a conference (as amendments in either true or technical disagreement). As an alternative to conference, this procedure can be useful in a variety of circumstances, particularly when the measure is not controversial or the differences between the House and Senate are relatively small. It is also used occasionally when time pressures or other circumstances make the requirements for a formal conference undesirable.² In addition, while conference reports receive a single vote, resolving differences by exchanging more than one amendment allows for separate votes on different elements of a bicameral compromise.

When the House or Senate considers an amendment of the other chamber, it does not yet formally disagree to that amendment. At this stage, the House or Senate may concur in the amendment, thus ending the process, or concur in the amendment with a further amendment of its own, proposing a new text to the other chamber. At any point, either house may choose not to act or it may insist on its own position and formally disagree with the amendment posed by the other. If a chamber insists on its position and formally disagrees with the amendment, it reaches the "stage of disagreement" necessary to allow the two chambers to proceed to conference.

This procedure allows two degrees of amending. The amendment of the second chamber to the measure is considered the text that is subject to amendment. Each chamber thus has one opportunity to propose an amendment to the amendment from the other. The House may extend the amendment exchange to another degree, however, by unanimous consent, a motion to suspend the rules, or under the terms of a special rule reported by the Rules Committee. The Senate can extend the amendment exchange to another degree by unanimous consent, or, if the House has already amended the text in the third degree, by motion. Generally, however, the provisions of an amendment between the houses are the subject of informal negotiations, and an extended exchange of amendments is rare.

¹ This report was written by James V. Saturno. The analyst listed as the author is available to answer questions on the topic.

² For information on the potentially time-consuming steps required to arrange for a conference committee in the Senate, see CRS Report RS20454, *Going to Conference in the Senate*, by Elizabeth Rybicki. For information on other procedural requirements in connection with conference committees, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki.

Consideration of Senate Amendments by the House

When the Senate passes a House bill with one or more amendments, it is messaged back to the House, where it is normally held at the Speaker's table. The bill may be referred to a committee at the Speaker's discretion, but this would be likely only if the Senate has included substantial nongermane matters in its amendment that would fall in the jurisdiction of a committee different from the one that considered the original matter in the bill.

One limitation on the use of amendments between the houses is that, before reaching the stage of disagreement, Senate amendments generally are not privileged in the House. This means a Member cannot interrupt the regular order of business to move that the House consider a measure with a Senate amendment if the subject of the amendment would normally need to be considered in Committee of the Whole (generally matters related to appropriations, or authorizations, appropriations, or revenues). The only motion that can be made on the House floor at this stage is a motion to go to conference with the Senate if made at the direction of the committee(s) with jurisdiction over the subject of the measure.

The House, however, may choose to consider Senate amendments by one of several methods that overcome this limitation. The House floor manager may ask unanimous consent to concur in the Senate amendments or concur with an amendment. Either case would normally only occur when the provisions in question are noncontroversial since objection by any Member would cause the request to fail. (This procedure does not allow for any debate, although another Member will often reserve the right to object, allowing the floor manager to clarify the purpose and content of the request.) As an alternative, or if an objection is made to a unanimous consent request, the House may also consider Senate amendments either by a motion to suspend the rules (when such a motion is in order) or under the terms of a special rule.

Consideration of House Amendments by the Senate

Senate consideration of House amendments is less restricted by chamber rules. Senate Rule VII provides that a motion to proceed to consideration of such an amendment is privileged, and, therefore, decided without debate. The rule also provides that any question pending when the motion is made be suspended (but not displaced). Under Senate precedents, before reaching the stage of disagreement, a motion to concur in House amendments has precedence over a motion to disagree and go to conference, and a motion to concur with an amendment has precedence over either.

If the Senate agrees to a motion to concur or concur with a further amendment, the amendment itself would be debatable and amendable under the regular rules of the Senate. As a result, the Senate typically takes action on an amendment of the House after negotiations that lead to the expectation that the amendment will be disposed of readily, often by unanimous consent. In the absence of such an expectation, the Senate would typically proceed to conference in order to negotiate a resolution to any serious disagreements within the Senate or with the House. In the 109th (2005-2006) and 110th (2007-2008) Congresses, the Majority Leader has, on occasion, attempted to restrict both Senate floor amendments and debate by offering all the motions available in connection with the disposition of House amendments (sometimes referred to as

“filling the tree”) and filing cloture on the base motion.³ If a sufficient number of Senators (60 under most circumstances) agree to invoke cloture, then after a maximum of 30 hours of consideration, the Senate votes on any pending motions.

³ See, for example, *Congressional Record*, daily edition, vol. 152, September 27, 2006, pp. S10616-10618; *Congressional Record*, daily edition, vol. 152, December 8, 2006, pp. S11658-11659; *Congressional Record*, daily edition, vol. 153, July 31, 2007, pp. S10400-10401; *Congressional Record*, daily edition, vol. 153, September 26, 2007, pp. S12122-12123; *Congressional Record*, daily edition, vol. 153, December 12, 2007, p. S15218, *Congressional Record*, daily edition, vol. 154, May 20, 2008, p. S4475.

Author Contact Information

Elizabeth Rybicki
Analyst on the Congress and Legislative Process
erybicki@crs.loc.gov, 7-0644