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Conference Reports and Joint Explanatory Statements

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When a conference committee completes its work successfully, the committee presents and explains its agreements in two documents: first, a conference report; and second, a joint explanatory statement, often called a statement of managers.

The conference report presents the formal legislative language on which the conference committee has agreed. The joint explanatory statement explains the various elements of the conferees' agreement in relation to the positions that the House and Senate had committed to the conference committee.

Two copies of each document must be signed by a majority of the House conferees and by a majority of the Senate conferees. One pair of the signed documents is retained by each house's conferees. Thus, a conferee who supports the conference agreement signs four signature sheets: two for the conference report and two for the joint explanatory statement. Of course, conferees who do not support the agreement are not required to sign any of the signature sheets.

The House and Senate create a conference committee to resolve the disagreements that result when one house passes a bill and the other house then passes the same bill with one or more amendments. It is those amendments that are in disagreement between the houses and that are the subjects of conference negotiations. In their conference report, the conferees propose a way to resolve the disagreement created by each of the amendments.

Assume that the House passed a bill and that the Senate later passed the same bill with, for example, three discrete amendments. These Senate amendments are numbered in the order in which they would affect the House bill, and the conference report addresses each of them in turn. There are essentially three ways in which conferees can propose to dispose of each amendment: both houses can accept the Senate amendment, both houses can reject it, or both houses can agree to a compromise between the Senate amendment and the corresponding provision of the House-passed bill. In this example:

- With respect to the first amendment in disagreement, the conference report may propose that the Senate recede from its amendment—in other words, that the House's position should prevail;
- With respect to the second amendment in disagreement, the conference report may propose that the House recede from its disagreement to the Senate amendment and then concur in it—in other words, that the Senate's position should prevail;
- And with respect to the third amendment in disagreement, the conference report may propose, first, that the House recede from its disagreement to the Senate amendment and then concur in it with a House amendment (the text of which is printed in the conference report) and, second, that the Senate also concur in this House amendment—in other words, that a compromise between the House and Senate positions should prevail.

The conference report itself contains only formal statements of whatever procedural actions the conferees propose that one or both houses take and the formal legislative language the conferees propose that the two houses approve. Thus, the conference report is essentially comparable to the text of a bill that a standing committee reports to the House or Senate. The joint explanatory statement, on the other hand, corresponds to the written committee report usually prepared to accompany the bill and to explain the committee's decisions. Clause 7(e) of House Rule XXII and paragraph 6 of Senate Rule XXVIII describe the purpose of this statement in similar terms. The Senate rule states in part that the "statement shall be sufficiently detailed and explicit to inform the Senate as to the effect which the amendments or propositions contained in [the

conference] report will have upon the measure to which those amendments or propositions relate.”

The joint explanatory statement typically identifies each major matter in disagreement that was submitted to the conferees. The statement then summarizes the House position, the Senate position, and the conferees’ recommendation. When the conferees have negotiated over a series of numbered amendments, the statement of managers is likely to discuss each of these amendments in sequence. When the conferees have negotiated over a bill passed by one house and an amendment in the nature of a substitute to it approved by the other—a practice that is very common—the statement is likely to discuss the House, Senate, and conference positions on each of the major issues that the two versions of the bill address. Like standing committee reports accompanying bills, joint explanatory statements may prove informative as legislative history. Unlike standing committee reports, however, joint explanatory statements may not contain statements of minority or additional views.

Each conference report and joint explanatory statement is printed in the House portion of the *Congressional Record*; in addition, they are printed together as a single House report. Senate Rule XXVIII also requires that the report and statement be printed as a Senate report. By unanimous consent, however, the Senate normally waives this requirement because the report and accompanying statement are printed as a House report, and there is no need for the same documents to be printed twice.

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