



Amendments Between the Houses: A Brief Overview

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The House and Senate must approve an identical version of a measure before it can 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.

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, such as 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. In addition, in recent Congresses, what is effectively a new legislative proposal has been considered in the form of an amendment between the houses. One procedural reason for proceeding this way is generally to expedite consideration of the proposal, particularly in the Senate, where a House amendment (unlike a bill) can be called up without debate. In the House, the form of the legislative proposal would not significantly lengthen the time spent on floor consideration; however, the motion to recommit is likely to be in order only on initial consideration of a bill or joint resolution, and not on consideration of an amendment between the houses.¹

In an amendment exchange, when the House or Senate considers an amendment of the other chamber, it usually 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 the provisions of an amendment between the houses are the subject of informal negotiations.

¹ For more information on the use of amendment exchange as an alternative to conference committee or as a method to first consider what is in effect a new legislative proposal, see CRS Report R41003, *Amendments Between the Houses: Procedural Options and Effects*, 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. House amendments are privileged in the Senate, which means they can be brought before the Senate without debate. Any motion to dispose of the House amendment, however, is debatable. 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. The motion to concur with an amendment is subject to further amendment.

In many cases, the Senate 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 could proceed to conference in order to negotiate a resolution to any serious disagreements within the Senate or with the House. If the chambers are using amendment exchange as an alternative to conference, or if the House amendment before the Senate is in effect a new legislative proposal and not a compromise version of the underlying bill, then the Senate is likely to spend time considering the House amendment on the floor. Sometimes unanimous consent agreements are reached to govern the amending process on a House amendment, similar to unanimous consent agreements reached on bills. To end debate and bring the Senate to a vote, it might be necessary to invoke cloture on the motion to dispose of the House amendment.

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