

CONSTITUTIONAL AMENDMENTS

Proposals to amend the Constitution in practice are presented in the Senate in the form of a Senate joint resolution, and the passage of such a joint resolution takes a two-thirds vote of the Senators voting, a quorum being present. A two-thirds vote is also required to adopt a House amendment to such a Senate joint resolution already passed by the Senate or to adopt a conference report on such a measure.

Other actions, and motions under Rule XXII, including Senate amendments, directed to joint resolutions to amend the Constitution, are disposed of by a majority vote.

Article V of the Constitution

[Procedure for Amending Constitution]

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article, and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Amendments to Proposal To Amend the Constitution:

Amendments of the Senate, including a substitute amendment, to its own joint resolution or measure proposing an amendment to the Constitution require only a majority vote for adoption.¹

Amendments by the House of Representatives to a Senate joint resolution or a Senate measure proposing an

¹ See Dec. 18, 1917, 65-2, *Record*, p. 477; July 5, 1909, 61-1, *Record*, p. 4120, July 15, 1959, 86-1, *Record*, pp. 13424, 13426-27; Jan. 13, 1961, 87-1, *Record*, p. 617; Mar. 26 and 27, 1962; 87-2, *Record*, pp. 5042-44, 5084-88, 5102, 5104-5; Oct. 2, 1970, 91-2, *Record*, pp. 34755-56; Aug. 2, 1965, 89-1, *Record*, p. 19045.

amendment to the Constitution require a two-thirds vote for adoption,² but may be by voice vote.³

A joint resolution proposing an amendment to the Constitution may be amended by a substitute amendment striking out all after the resolving clause and inserting in lieu thereof legislative or statutory provisions; if agreed to, this would completely eliminate the proposal to amend the Constitution; and the adoption of both the amendment and the passage of the joint resolution, as amended, would require only a majority vote; an amendment to accomplish this end would have to embody a complete substitute for the substance of the proposed Constitutional amendment, since the vehicle could not embody both statutory provisions and a proposed amendment to the Constitution.⁴

An amendment in the nature of a substitute proposing to strike out all after the resolving clause of a joint resolution, which proposes to amend the Constitution, and insert in lieu thereof legislative or statutory provisions is in order;⁵ likewise, a joint resolution proposing legislative or statutory provisions may be amended by the adoption of a substitute amendment striking out all after the resolving clause with language proposing an amendment to the Constitution.⁶

It is not in order to offer the text of a proposed Constitutional amendment as a substitute for a simple Senate resolution.⁷

Conference Report on Proposals To Amend the Constitution:

The adoption of a conference report on a measure which proposes an amendment to the Constitution requires a two-thirds vote.⁸

² See Dec. 18, 1917, 65-2, *Record*, p. 477; July 5, 1909, 61-1, *Record*, p. 4120, July 15, 1959, 86-1, *Record*, pp. 1342-4, 13426-27; Jan 13, 1961, 87-1, *Record*, p. 617; Mar. 26 and 27, 1962, 87-2, *Record*, pp. 5042-44, 5084-88, 5102, 5104-05; Oct. 2, 1970, 91-2, *Record*, pp. 34755-56; Aug. 2, 1965, 89-1, *Record*, p. 19045.

³ See June 16, 1960, 86-2, *Record*, p. 12858.

⁴ Jan. 25, 1950, 81-2, *Record*, pp. 871-72.

⁵ See Feb. 2, 1960, 86-2, *Record*, pp. 1747-48.

⁶ Jan. 13, 1961, 87-1, *Record*, p. 671; Mar. 26 and 27, 1962, 87-2, *Record*, pp. 5042-44, 5084-88, 5102, 5104-5.

⁷ Jan. 21, 1932, 72-1, *Record*, p. 2414.

⁸ Mar. 2, 1932, 72-1, *Record*, p. 5086; see July 6, 1965, 89-1, *Record*, p. 15595.

Constitutional Questions:

See also "Constitutionality of Amendments," pp. 52-54, 683-686, 1215-1216.

Under the uniform practices of the Senate, whenever a question of constitutionality is raised, the Chair submits the question to the Senate for decision.⁹

The question of the constitutionality of an amendment proposed to a pending bill is submitted to the Senate for a decision; it is not within the province of the Chair to determine the constitutionality of an amendment.¹⁰

Under the precedents of the Senate, the Presiding Officer has no authority to pass upon a constitutional question, but must submit it to the Senate for its decision.¹¹

A point of order against the constitutionality of an amendment may not be ruled on by the Chair but must be submitted to the Senate for its decision.¹²

The question of constitutionality having been raised in the case of an amendment proposing to amend the Constitution, offered as a substitute for the language of a legislative provision, the matter, under the precedents, was submitted by the Vice President to the Senate for decision.¹³

A point of order involving the constitutionality of a Senate rule is submitted to the Senate for decision, and is not passed on by the Chair.¹⁴

Constitutionality of Bills:

During the consideration of the Alaskan Statehood bill, the Senate decided that a point of order that section 10 of the bill violated the constitutional requirements for admission of States into the Union was not well taken.¹⁵ During the further consideration of the same bill, the Senate decided that a point of order that section 8 of the Constitution of the State of Alaska was in direct violation of the Constitution of the United States in providing the manner and terms for the election of United States Senators was not well taken.¹⁶

⁹ Nov. 22, 1971, 92-1, *Record*, p. 42632.

¹⁰ *See* Sept. 26, 1967, 90-1, *Record*, p. 26823.

¹¹ *See* Aug. 22, 1978, 95-2, *Record*, pp. 27249-59; Feb. 19, 1962, 87-2, *Record*, pp. 2418-19.

¹² *See* June 16, 1966, 89-2, *Record*, pp. 13548-49.

¹³ Mar. 27, 1962, 87-2, *Record*, pp. 5086-87.

¹⁴ *See* Sept. 18, 1961, 87-1, *Record*, pp. 20018-20.

¹⁵ June 27, 1958, 85-2, *Record*, pp. 12454, 12471.

¹⁶ June 30, 1958, 85-2, *Record*, pp. 12602-04, 12611-12.

Debate of:

Constitutional points of order which must be submitted to the Senate are debatable.¹⁷

Pairs on Proposals To Amend the Constitution:

See "Pairs," pp. 968-976.

CONSTITUTIONALITY OF AMENDMENTS TO BILLS

See "Constitutionality of Amendments," pp. 52-54, 683-686, 1215; "Revenue," pp. 1214-1216.

¹⁷ *See* June 16, 1966, 89-2, *Record*, pp. 13548-49.