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# Debate, Motions, and Other Actions in the Committee of the Whole

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## Summary

The House of Representatives resolves into the Committee of the Whole, a parliamentary device designed to allow greater participation by Members in debate, to consider major measures. Various rules and procedures govern how and when Members can engage in debate, offer amendments, make motions and requests, and take other actions in the Committee of the Whole. In addition, measures considered in the Committee of the Whole are subject to conditions governing debate and amendments that are specified by a special rule or a unanimous consent agreement.

Time during general debate is controlled by the chair and ranking member of the committee that reported the measure under consideration. These Members, called floor managers, determine who may speak, for how long, and in what order. Time during the amendment process is sometimes controlled in a similar way under the terms of a special rule. Alternatively, the amending process might proceed under the “five-minute rule,” whereby the proponent and an opponent of an amendment are recognized by the chair of the Committee of the Whole for five minutes each. Additional Members may offer “pro forma amendments” solely for the purpose of gaining recognition to speak for five minutes. In some circumstances, Members might make motions to close or limit five-minute debate.

If a Member believes a pending matter violates a House rule, he or she may make a point of order against it; a Member may also reserve a point of order to be made later against an amendment. A ruling by the chair as to whether a matter violates a House rule may be appealed. A Member might also make a parliamentary inquiry to ask a question about a procedural situation.

Some actions can be taken in the Committee of the Whole by unanimous consent; however, a Member cannot ask unanimous consent to take actions in Committee of the Whole that are properly performed by the House or that substantially modify conditions established by a special order agreed to by the House.

The Committee of the Whole resolves back into the House proper by “rising.” Members might make a motion simply to rise, when the Committee of the Whole has not concluded consideration of a measure, or to rise and report, when consideration has concluded. Special rules usually include language that makes a motion to rise and report unnecessary. Members occasionally make the motion to rise and report with the recommendation to strike the enacting clause.

A quorum for conducting business in the Committee of the Whole is 100 Members, but a quorum is presumed to be present unless it is otherwise demonstrated through a process that begins when a Member makes a point of order on the floor. Three kinds of votes can take place in the Committee of the Whole: voice, division, and recorded.

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## Introduction

Members of the House of Representatives have multiple opportunities to participate in the consideration of measures on the floor. They can discuss legislation, and they can sometimes propose changes to the pending text or suggest actions that may facilitate deliberation or expedite decisionmaking.

A parliamentary device designed to allow greater participation in debate is the Committee of the Whole (formally, the Committee of the Whole House on the state of the Union).<sup>1</sup> The Committee of the Whole can be understood as the assembly in a different form; it is a committee of the House composed of every Representative that meets in the House chamber. The House considers most major measures that are expected to be subject to amendment in the Committee of the Whole; in fact, House rules require revenue, appropriations, and authorization measures to be first considered in the Committee of the Whole (House Rule XVIII, clause 3).

Under the standing rules, the House can agree to resolve itself into the Committee of the Whole in one of three ways: by a special rule, by unanimous consent, or by motion.<sup>2</sup> Most of the time, the House adopts a special rule, a simple resolution reported by the Committee on Rules, authorizing the Speaker to declare the House resolved into the Committee of the Whole to consider a particular measure. Less frequently, a Member might ask unanimous consent that the House resolve itself into the Committee of the Whole for consideration of a particular measure. Finally, in very limited circumstances a Member may make a motion to resolve into the Committee of the Whole to consider (or further consider) a bill, although it is not done in modern practice.<sup>3</sup>

The consideration of a measure in the Committee of the Whole and in the House can be divided into five stages: (1) the House resolves itself into the Committee of the Whole; (2) Members engage in general debate on the measure; (3) Members offer, consider, and vote on amendments to the measure; (4) the Committee of the Whole rises and reports back to the House with a recommendation; and (5) the House votes on the recommendation and then on the measure itself.

Various rules and procedures, discussed in this report, govern how and when Members can participate in debate, offer amendments, make motions and requests, and take other actions in the Committee of the Whole. Although there is variation in the language used by Members to engage in these activities, the report also presents some examples of parliamentary phraseology.

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<sup>1</sup> For additional information on the rules, procedures, and practices in the Committee of the Whole, see (1) William Holmes Brown and Charles W. Johnson, *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* (Washington: GPO, 2017, hereinafter *House Practice*), chapter 12, pp. 305-338; (2) U.S. Congress, *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the 117<sup>th</sup> Congress*, H.Doc. 116-177, 116<sup>th</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 2021, hereinafter *House Rules and Manual*), especially secs. 970-989.

<sup>2</sup> In addition, under the rarely used Calendar Wednesday procedures, the House would automatically resolve itself into the Committee of the Whole “without motion” subject to the question of consideration (House Rule XV, clause 6). For more on this procedure, which only occurs at the request of a committee chair, see CRS Report RS20067, *How Measures Are Brought to the House Floor: A Brief Introduction*, by Christopher M. Davis.

<sup>3</sup> A motion to resolve into Committee of the Whole is privileged (meaning it can interrupt the regular order of business) in limited circumstances under House rules. For example, under clause 5 of Rule XIII, motions to resolve into the Committee of the Whole to consider general appropriations bills and, after September 15, continuing appropriations bills, are privileged if made by the Committee on Appropriations (i.e., by a Member of the Committee on Appropriations, usually the chair of the appropriations subcommittee responsible for the particular general appropriations bill). See *House Practice*, pp. 315-316.

Before a Member can take any action, the Member must be recognized for such purpose by the chair of the Committee of the Whole.<sup>4</sup> The chair of the Committee of the Whole, who is a Member of the majority party appointed by the Speaker, exercises substantial discretion in recognition. Sometimes, the chair will ask, “for what purpose does the gentleman (or gentlewoman) rise?” before according recognition.

Measures considered in the Committee of the Whole typically are subject to conditions governing debate and amendments that are specified by a special rule from the Committee on Rules or a unanimous consent agreement. In either case, the House sets the procedural conditions under which the particular measure is considered in the Committee of the Whole. The Committee of the Whole, even by unanimous consent, may not set aside or substantially modify those conditions.<sup>5</sup> Under those conditions, a Member may be prohibited from gaining recognition to debate or make a certain motion or request in the Committee of the Whole.

## **Controlling and Gaining Time During General Debate and the Amendment Process**

Members are always limited in the amount of time they can spend speaking on the floor. The manner in which time is obtained, restricted, and distributed in the Committee of the Whole depends on the stage of consideration of the measure and the terms of any special rule or unanimous consent agreement governing the consideration of the measure.

After the House resolves itself into the Committee of the Whole to consider a particular bill or resolution, Members engage in general debate on the measure. During the general debate stage, Members discuss the bill and may discuss any amendments they plan to offer, but they may not offer amendments during this time. The next stage of consideration is the amendment process. During this stage, Members seek recognition to offer amendments and to debate their merits.

Along with these two distinct stages of debate, there are two different methods by which time is distributed in the Committee of the Whole. Time for debate is either “controlled” or it is not. Under controlled time, a Member is granted a block of time from a Member, called a “manager,” who determines which Members may speak, for how long, and in what order. Controlled time is generally divided equally between two managers.

If time is not controlled, then a Member gains time to speak by seeking recognition from the chair of the Committee of the Whole. Absent any order of the House governing consideration of a measure, time in the Committee of the Whole would be controlled only during general debate. During the amendment process, the chair would distribute time in five-minute portions as described in the “Debate Under the Five-Minute Rule” section, below.

The House usually resolves into the Committee of the Whole under a special rule, however, and these orders of the House always provide for controlled time during general debate and often during the amendment process.

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<sup>4</sup> For further information on the rules, procedures, and practices associated with the securing and granting of recognition, see *House Practice*, chapter 26, pp. 797-813.

<sup>5</sup> The Committee of the Whole, however, may rise and return back to the House, which subsequently may adopt a special rule, or agree by unanimous consent, to modify the conditions under which the particular measure is considered in the Committee of the Whole. See, for example, archived CRS Report RS22711, *Considering Regular Appropriations Bills on the House Floor: Current Practice Regarding Comprehensive Unanimous Consent Agreements*, by Christopher M. Davis.

## General Debate

Time for general debate in the Committee of the Whole is almost always set and controlled by the terms of a special rule or a unanimous consent agreement.<sup>6</sup> These agreements often limit the time for general debate to one hour, although the length of general debate can vary. In practice, general debate is usually divided between the chair and the ranking minority member of the committee of jurisdiction of the measure under consideration. These Members are referred to as the majority and minority floor managers. If the measure falls under the jurisdiction of multiple committees, then the chair and ranking member of each committee might control a portion of general debate time.

### Controlling Time as a Manager

Those designated to control the time often begin discussing the measure by yielding to themselves a set number of minutes or, more often, by stating:

I yield myself such time as I may consume.

The manager then controls the time until it expires or until the manager retains his or her remaining time by saying:

I reserve the balance of my time.

The presiding officer will then recognize the other floor manager. By reserving the time, a floor manager gives the other floor manager a chance to speak or distribute time. Generally, the chair alternates recognition between managers from each side.

Floor managers yield portions of time to Members who let them know in advance they wish to debate the measure. Each floor manager usually, but not necessarily, yields to Members on his or her side of the aisle. By custom, managers do not refer to other Members by name and instead designate them by state. For example, the manager might say:

I yield two minutes to the gentlewoman from New Hampshire.

Alternatively, the floor manager might say:

I yield to the gentleman from California as much time as he may consume.

If a manager yields a portion of time to another Member, the manager may not take the time back. Once the time is yielded, it belongs to the Member who is speaking until the Member finishes and “yields back” the time or until the presiding officer announces that the time has expired.

Time is kept by the clerks sitting at the House dais, and managers often ask:

Mr./Madam Chairman, how much time is available to each side?

In response, the presiding officer will announce how much time the majority and minority floor managers have left. It is not uncommon for the managers to discuss with each other how the

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<sup>6</sup> If the length of general debate on a measure was not set by special rule, unanimous consent, or statute before the House resolved into the Committee of the Whole, then debate would take place under the hour rule and every Member could potentially each speak for an hour. After beginning general debate under these circumstances, however, the Committee of the Whole could rise and the House could adopt a motion, or agree to a unanimous consent request, to set a time limit on general debate. *Deschler's [and Deschler-Brown] Precedents of the House of Representatives*, 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Doc. 94-661 (Washington: GPO, 1977, hereinafter *Deschler*), ch. 29, sec. 76.3-76.5, pp. 620-622.

remaining time will be distributed. For example, one manager might ask the other how many more Members on that side are waiting to speak.

The floor manager from the majority party has the right to speak last in general debate, or “to close,” when time is controlled.<sup>7</sup> Toward the conclusion of general debate, the majority floor manager will likely reserve the balance of his or her time until all the time of the minority manager has been consumed or until the minority manager yields back the balance of his or her time.

Debate ends when all time has expired or all time has been yielded back. The floor managers yield back time by simply stating:

I yield back the balance of my time.

If the time allowed for general debate has not expired, managers sometimes discuss whether or not to end general debate. The managers might in this way determine that no more Members wish to speak on either side and they might then, in turn, yield back their remaining time. If the length of time for general debate is set by the House, as it nearly always is, the Committee of the Whole cannot extend the length of time for general debate—not even by unanimous consent.<sup>8</sup>

## **Gaining Recognition to Speak Under Controlled Time**

When Members who are not the floor manager wish to speak, they inform the floor manager on their side of their interest in speaking. The floor manager can yield portions of time to Members. When a block of time a Member has been yielded is over, the chair will announce that the time yielded to the Member has expired. If the Member wishes to continue speaking, the Member can look to the floor manager and request additional time. The floor manager might choose to yield to the speaker an additional portion of time if any of the manager’s time remains uncommitted.

## **Yielding**

There is a difference between *yielding a portion of time* to another Member and *yielding to* another Member. Any Member who has been recognized for debate may yield, but under modern practice only managers may yield portions of time. A Member who has been yielded time by a manager, in other words, may not yield a specified amount of time, such as 30 seconds or five minutes, to another Member and expect the Presiding Officer to enforce the time limit.<sup>9</sup> The Member might, however, “yield to” another Member for a question or a comment, but the yielding Member retains the floor. Thus, any time consumed by the Member yielded to is charged against the portion of time yielded originally by the manager.

When a Member is yielded to, he or she is actually using the time of another Member. For this reason, Members ask permission to use another Member’s time. If a Member wants to interrupt another Member to ask a question or respond to something that was said, the Member can ask:

Will the gentleman (or gentlewoman) yield?

The Member speaking can decline to yield. Or, the Member can respond:

I yield to the gentleman (or gentlewoman).

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<sup>7</sup> *House Rules and Manual*, sec. 959, p. 793.

<sup>8</sup> *Deschler*, ch. 29, sec. 75.7.

<sup>9</sup> *Deschler*, ch. 29, sec. 31.24 and sec. 31.25. Sometimes a Member yielding to another Member will indicate a specific period of time he or she wishes the other Member to speak; however, a Member yielding in this situation should remain on his or her feet, and no one at the desk will keep track of the time used by the Member who was yielded to.

The Member who has yielded retains the floor and should remain standing. The time being consumed belongs to the Member who yielded. Therefore, the Member who was yielded to cannot yield to a third Member. If another Member wants to join the discussion between the yielding Member and the Member who was yielded to, he or she would have to seek permission to interrupt from the yielding Member. In this way, Members might engage in a colloquy, with one Member yielding to one or more Members in turn so that they may exchange information or debate an issue.

Furthermore, the Member who has yielded to another Member can take the time back. Generally, this is done by interrupting the Member who had been yielded to by saying:

Reclaiming my time....

The following example illustrates the difference between *yielding a portion of time* and *yielding to* another Member. During general debate, Representative A, as floor manager, might yield five minutes to Representative B, another majority-party member of the committee. Representative B then may begin speaking. If at some point during the five minutes another Member, Representative C, rises while Representative B is speaking and asks “will the gentleman (or gentlewoman) yield?,” then Representative B can either yield or decline to yield. If Representative B yields, then any time used by Representative C is charged against the five minutes originally granted to Representative B. Representative C cannot yield to yet another Member, Representative D, because Representative B holds the floor. Representative D would have to ask Representative B to yield. Although Representative B cannot limit the time of Representative C by yielding only a set period of time, at any point Representative B can reclaim his time.

## **Debate During the Amendment Process**

Debate during the amendment process will occur under the five-minute rule (described below) unless a special rule specifies that time will be controlled.<sup>10</sup> Special rules that permit only certain amendments to be offered, usually called structured rules by the Committee on Rules, typically provide for the debate time on those amendments to be controlled.<sup>11</sup>

### **Controlled Time for Debating an Amendment**

If debate time on an amendment is controlled under the terms of a special rule, the rule usually specifies the Member (or a designee) who may offer the amendment and how long the amendment may be debated. Time to debate amendments is usually equally divided between the amendment’s sponsor and a Member who opposes it.

It is unlikely that the rule will specify the Member who will control the half of the time in opposition to the amendment. Instead, after the clerk designates the amendment<sup>12</sup> and the proponent is recognized and finishes speaking, a Member can stand and state:

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<sup>10</sup> Time to debate amendments in the Committee of the Whole might be controlled under a few other circumstances as well. For example, the Committee of the Whole might agree by unanimous consent to limit the length of time for debate on an amendment, and to provide for this time to be divided and controlled by Members identified in the agreement. *Deschler*, ch. 29, sec. 27.3.

<sup>11</sup> For more information on structured rules, see CRS Report R47314, *Offering an Amendment on the House Floor: Current Practice*, by Michael Greene and Elizabeth Rybicki.

<sup>12</sup> Although under House rules amendments are to be read in full when offered, special rules that make specific amendments in order usually provide that they be considered as read. Therefore, the chair usually directs the clerk to



I rise to claim time in opposition to the amendment.

The majority floor manager will often ask to control the time in opposition if the amendment is not a committee amendment. The chair will then grant the available time to the Member who claims it by stating that the gentleman (or gentlewoman) will be recognized for, or will control, the specified number of minutes.

Controlled time during the amendment process operates the same way as controlled time during general debate. As described above, those controlling the time for debate on an amendment usually begin by yielding time to themselves to discuss the amendment. These managers then usually reserve the balance of their time and yield portions of their time to other Members in the same fashion as described above.

When the majority floor manager (usually the committee chair) controls the time in opposition to an amendment, he or she, and not the sponsor of the amendment, has the right to close debate, or to speak last on an amendment (House Rule XVII, clause 3(c)). The general principle behind this practice is that the committee of jurisdiction defends the bill it reported against amendments.<sup>13</sup>

At some point in the debate, accordingly, the manager of an amendment who has the right to close will normally reserve the balance of his or her time until all the time of the other manager has been consumed or yielded back. As is the case with all controlled time, when all time has expired or has been yielded back, debate on the amendment ends.

### **Debate Under the Five-Minute Rule**

Time for debating amendments is not always controlled in the Committee of the Whole. Debate sometimes takes place under what is known as the “five-minute rule.”<sup>14</sup> Clause 5(a) of House Rule XVIII states:

A Member, Delegate, or Resident Commissioner who offers an amendment shall be allowed five minutes to explain it, after which the Member, Delegate, or Resident Commissioner who shall first obtain the floor shall be allowed five minutes to speak in opposition to it.

Accordingly, if a Member offers an amendment, the presiding officer will recognize him or her for five minutes. Another Member (sometimes the floor manager defending the version of the bill reported by the committee of jurisdiction) can then be recognized for five minutes to speak against the amendment by standing and stating:

I rise in opposition to the amendment.

Time under the five-minute rule is not controlled, meaning that there is no Member acting as a manager and allocating portions of time. Instead, any Member may seek recognition from the chair of the Committee of the Whole to speak for five minutes. A Member need not consume the full five minutes, but time cannot be reserved.

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“designate” the amendment, in which case the clerk will identify the amendment in an abbreviated form, such as by the sponsor.

<sup>13</sup> Additional precedents concerning the right to close debate on an amendment are discussed in the *House Rules and Manual*, sec. 959, pp. 792-794.

<sup>14</sup> The process for offering substantive amendments is discussed further below and extensively in CRS Report 98-995, *The Amending Process in the House of Representatives*, by Christopher M. Davis.

Certain types of special rules, especially those referred to as open rules or modified open rules, normally allow for amendments under the five-minute rule.<sup>15</sup>

When a Member's five minutes on an amendment expires, the Member sometimes asks unanimous consent to extend his time by a specified number of additional minutes, up to five minutes.

### ***Pro Forma Amendments***

Although the five-minute rule technically permits only 10 minutes of debate for each amendment, five for and five against the amendment, Members secure additional time through the use of *pro forma* amendments. Pro forma amendments are amendments to strike one or more words of the text under consideration, and they are offered solely for the purpose of gaining recognition to speak for five minutes. In other words, no change to the text under consideration is substantively proposed; the proponent is not actually suggesting a word or words be stricken.

After the proponent and the opponent of an amendment have spoken for their allotted five minutes, another Member who wishes to speak may rise and state:

I move to strike the last word.

The chair then recognizes the Member for five minutes, technically to speak on the pro forma amendment, but in fact to continue debate on the pending substantive amendment.

Any number of pro forma amendments can be made, but because of a general prohibition against offering the same amendment twice, Members sometimes choose to say instead:

I move to strike the requisite number of words.

Pro forma amendments can also be made when no amendment is pending if Members wish to discuss the measure itself. Pro forma amendments, however, are not always in order in the Committee of the Whole. If a measure is being considered under a special rule from the Committee on Rules that prohibits most or all amendments or that permits only specified amendments, then pro forma amendments are not in order unless the special rule explicitly states otherwise.<sup>16</sup> If it is being considered under a modified open rule, the rule might allow only the floor managers to offer a limited number of pro forma amendments.

### ***Yielding***

Debate under the five-minute rule, as stated above, is not controlled time. Members therefore cannot yield portions of their five minutes to other Members. They can, however, remain standing and yield to other Members for questions or comments, and the time consumed by the other Members is deducted from the time of the yielding Member. A Member recognized under the five-minute rule also cannot yield to another Member for the purposes of offering an amendment. The Member who wishes to offer an amendment could seek recognition for that purpose later from the presiding officer.

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<sup>15</sup> In addition, if the House simply agreed by motion or by unanimous consent to consider a bill in the Committee of the Whole, the bill would be amended under the five-minute rule.

<sup>16</sup> *House Practice*, p. 323; *Deschler*, ch. 29, sec. 77.20. In addition, unanimous consent agreements may restrict the offering of pro forma amendments. Some, for example, allow only the chair and ranking minority member of the committee of jurisdiction, or their designees, to offer pro forma amendments.

## Motions to Close (or Limit) Debate

Although rare in modern practice, in some circumstances Members might make motions to close or limit debate on (1) the portion of the measure that is open for amendment, or (2) a pending amendment. Generally, the motions are made to close debate on the pending portion of the text or the pending amendment and “all amendments thereto.” This action prevents further discussion of pro forma or substantive amendments to the pending section (or amendment).

When the Committee of the Whole is considering a measure under a special rule that sets time limits for debate on amendments, motions to close debate are not in order. The Committee of the Whole can make minor changes to the terms of consideration specified in a special rule only by unanimous consent and only if the changes are “congruent with the terms” of the special rule.<sup>17</sup>

If the Committee of the Whole is considering a measure under an open rule, however, Members may make motions to close five-minute debate. It is in order to move to close debate only on the portion of the bill that has been read or designated for amendment. Under the five-minute rule, bills are generally read section by section (except general appropriation bills, which are usually read paragraph by paragraph).

A motion to close or limit debate on an amendment (and all amendments thereto) is in order after the proponent of the amendment has been recognized for five minutes and has finished his or her remarks. The motion is usually made by the majority floor manager, although any Member who is recognized might make the motion.

A Member might move that debate end immediately, after the expiration of a certain length of time, or at a specified hour.<sup>18</sup> For example, a Member could make any of the following motions:

I move to close debate on the section and all amendments thereto.

I move to limit debate on the paragraph and all amendments thereto to 10 minutes.

I move that all debate on the amendment and all amendments thereto end at 3 p.m.

The motion to close or limit debate is amendable but not debatable; after the motion is made the Committee of the Whole proceeds to vote on it.

A successful motion to close debate on a section (or amendment) and all amendments thereto does not prevent Members from offering further amendments; it only prevents them from debating such amendments if offered. In other words, if the motion to close debate is agreed to, then once the time remaining for debate (if any) has expired, amendments to the section or the amendment are still in order but they cannot be discussed. If an amendment that was printed in advance in the *Congressional Record* is offered, however, then the proponent and an opponent will each be recognized for five minutes even after debate has been closed on a portion of a measure (House Rule XVIII, clause 8).<sup>19</sup>

The Committee of the Whole might agree to close or limit debate by unanimous consent, rather than by motion. By unanimous consent, the Committee of the Whole could agree to close or limit

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<sup>17</sup> *House Practice*, p. 448.

<sup>18</sup> The form of the motion affects how time is kept. If the motion specifies that all debate end at a certain specified time, such as 3:00 p.m., then time consumed by actions other than debate—such as votes or the reading of amendments—is subtracted from the time for debate. If the motion instead states that debate end after the expiration of a certain length of time, such as an hour, then only time consumed in debate is counted against the stated length of time. See *House Practice*, pp. 449-450.

<sup>19</sup> This provision can be superseded by a special rule.

debate on a portion of text not yet read. In addition, the Committee of the Whole could agree by unanimous consent to limit debate on an amendment not yet offered. If debate is limited by unanimous consent, then the Committee of the Whole can also allocate the remaining time between specified Members.<sup>20</sup> Prior to proposing such unanimous consent requests, the floor managers sometimes engage in a colloquy to reach an agreement about how much time is needed to discuss a pending section or amendment.

If the Committee of the Whole agrees to end debate at some subsequent point, the chair might continue to recognize Members under the five-minute rule. In the past, the chair has also distributed any time provided for under a motion or unanimous consent agreement to close debate by asking Members desiring to speak to stand and then dividing remaining time among them. Alternatively, the chair might make the remaining time controlled time. The chair, for example, might announce that since the Committee of the Whole has agreed to end debate on the amendment and all amendments thereto after an additional half hour, the amendment's sponsor and a Member opposed will each control 15 minutes.<sup>21</sup>

## **Amendments**

### **Motion to Amend**

Unless prohibited by a special rule, a Member may make a motion to amend a paragraph or section after that paragraph or section has been read or designated for amendment. Once the reading of the following paragraph or section has begun, offering a motion to amend the preceding paragraph or section requires unanimous consent.

A Member can also make a motion to amend an amendment unless prohibited by a special rule. In fact, House rules permit as many as four (and in some cases five or more) amendments to be pending simultaneously before a vote is held on any of them (House Rule XVI, clause 6). (The amendment process in the Committee of the Whole rarely becomes this complicated, but interested readers should consult CRS Report 98-995, *The Amending Process in the House of Representatives*.)

In general, a motion to amend in the Committee of the Whole takes precedence over a motion to rise and report a bill with a recommendation (see “Motion to Rise and Report” section, below).<sup>22</sup> In other words, a Member may not offer a motion to rise and report if another Member seeks recognition to offer an amendment. Under House Rule XXI, clause 2(d), however, after a general appropriations bill has been entirely read for amendment, a motion to rise and report, if offered by the majority leader or a designee, has precedence over any further motions to amend the bill.<sup>23</sup> If agreed to, the motion to rise and report effectively ends consideration of the bill in the Committee of the Whole, precluding any further amendments. If such a motion to rise and report is rejected (or is not offered), Members may offer amendments proposing limitations not authorized in

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<sup>20</sup> *House Practice*, p. 448.

<sup>21</sup> For more information on the discretion of the chair in recognition after debate has been limited, see *House Practice*, p. 450.

<sup>22</sup> *Deschler*, ch. 19, sec. 23.14, p. 273.

<sup>23</sup> At this stage, only an amendment proposing to add a provision after the last section of the bill, or an amendment in the nature of a substitute, would be in order.

existing law.<sup>24</sup> These specific kinds of amendments are not in order while a general appropriations bill is being read for amendment.

### **Withdrawal or Modification of Amendment**

Once an amendment has been offered and is pending in the Committee of the Whole, the Member offering it may withdraw or modify it only by unanimous consent. In current practice, however, amendments are typically considered under the terms of structured special rules, which also permit Members to withdraw amendments.

### **Dispensing with Reading of Amendment**

Under House rules, an amendment must be read in full before any action can be taken on it. The reading of the amendment may be dispensed with by motion, under House Rule XVIII, clause 7, if the amendment has been printed in the bill as reported or in the *Congressional Record*. The motion is not debatable.

Most often, however, a special rule will provide that such amendments “shall be considered as read,” making the motion or request unnecessary. In such cases, the clerk will designate the amendment when it is offered.

The reading of any amendment also may be dispensed with by unanimous consent. If necessary, a Member can state, after offering the amendment:

Mr./Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the *Record*.

## **Other Motions and Actions**

During the consideration of a measure in the Committee of the Whole, a number of motions and requests can be made by Members to raise questions about the method of proceeding, obtain additional time for debate, or advance a measure closer to a final vote.<sup>25</sup> Not all motions and requests available in the Committee of the Whole are listed below, although an effort has been made to include those most likely to be used by Members in the contemporary Congress.

## **Actions Concerning Rules and Procedures**

### **Point of Order**

Any Member may make a point of order against a pending matter (e.g., a provision in a bill or an amendment) on the grounds that it violates a rule of the House, although a special rule, or a unanimous consent agreement, may waive certain points of order.<sup>26</sup> A point of order, for example,

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<sup>24</sup> For further information on limitation amendments to general appropriations bills, see CRS Report R41634, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, by James V. Saturno.

<sup>25</sup> Any Member may demand that a motion be made in writing. *Deschler*, ch. 19, sec. 2.1. Once a motion has been made, unanimous consent is required to withdraw it. *Deschler*, ch. 2.3, sec. 2.10.

<sup>26</sup> In current practice, points of order relating to the consideration of a bill are almost always waived by special rule. If they were not, then they would be properly raised in the House, prior to resolving into the Committee of the Whole. Under House Rule XXI, clause 1, however, points of order against provisions in a general appropriations bill are “considered as reserved.” This automatic reservation permits a Member in the Committee of the Whole to raise a point of order against a provision in a reported general appropriations bill that violates House Rule XXI, which generally

may be raised against an amendment that violates the germaneness requirement (House Rule XVI, clause 7) or the Congressional Budget Act of 1974 (Titles I-IX of P.L. 93-344, as amended; 2 U.S.C. 601-688).<sup>27</sup> Except in certain cases, the point of order must be made after the matter has been read, or considered read, but before debate has begun on the matter.<sup>28</sup> Once recognized for this purpose, a Member usually states:

Mr./Madam Chairman, I make a point of order against the [amendment, section, paragraph, etc.].

The Member making the point of order should refer by number or by subject matter to the rule of the House that the pending matter violates and is expected to explain why or in what way the amendment or other matter violates the rule.<sup>29</sup>

Argument on a point of order is at the discretion of the chair. Normally, however, the chair will entertain debate on the merits of the point of order; debate is limited to the alleged rule violation, not the merits of the policy. Often, the chair will recognize the sponsor of an amendment or manager of the bill to respond to a point of order against an amendment. A Member recognized for debate on the point of order does not control time, and thus cannot reserve time or yield time to another Member.

A point of order is initially settled by a ruling of the chair on whether the matter cited does in fact violate the rule specified. If the chair rules the matter out of order, the Committee of the Whole may not consider it further. In ruling on points of order, the chair is aided by guidance from the Parliamentarian on applicable precedents. The Parliamentarian also may provide guidance to Members considering offering amendments or making points of order against them or other matters.

A Member may withdraw a point of order at any time before the chair rules on it. Further, a point of order may be waived by a special rule, or by a unanimous consent agreement, for the consideration of the particular measure. Generally speaking, structured rules for the consideration of bills typically waive points of order that can be raised against the amendments specifically permitted to be offered; open rules for the consideration of bills typically do not waive points of order.

If a Member has not yet determined whether a point of order lies against an amendment about to be debated, then instead of making a point of order, a Member might, at the discretion of the chair, reserve a point of order.<sup>30</sup> By this action, a Member secures the chance to review the matter

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prohibits unauthorized appropriations and legislation in general appropriations bills. *House Practice*, p. 680.

<sup>27</sup> Generally, the germaneness requirement prohibits an amendment on a subject matter different from that of the provisions under consideration. This is a simplified description of a highly complex rule. For further information on the germaneness requirement, see (1) *House Rules and Manual*, secs. 928-940, pp. 744-774; (2) *House Practice*, chapter 26, pp. 543-602; (3) *Deschler*, volumes 10 and 11; and (4) CRS Report 98-995, *The Amending Process in the House of Representatives*. For further information on points of order under the Congressional Budget Act, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

<sup>28</sup> Under House rules, certain points of order may be made “at any time.” For example, a point of order may be raised “at any time” against an appropriation (clause 4 of House Rule XXI) or tax (clause 5(a) of House Rule XXI) provision contained in, or offered as an amendment to, a bill not reported by the appropriate committee. *House Practice*, p. 684.

<sup>29</sup> *House Practice*, p. 680.

<sup>30</sup> *House Practice*, p. 683. Pursuant to established practice, a Member may reserve a point of order against an amendment, but not against a paragraph in the bill text. *Deschler*, ch. 31, secs. 3.5 and 3.6.

without missing the opportunity to make a point of order against it.<sup>31</sup> Before debate on an amendment begins, for example, a Member could seek recognition from the chair and state:

Mr./Madam Chairman, I reserve a point of order against the amendment.

The Member at this stage need not specify what rule he or she believes the amendment might violate. A Member who reserves a point of order can then decide, at a later time during debate, to make the point of order or withdraw the reservation. At any time, however, including immediately after the Member attempts to reserve a point of order, the chair can require the Member to state the point of order. In addition, if a Member demands regular order, the Member must state the point of order or withdraw the reservation.<sup>32</sup>

## Appeal

After the chair rules on a point of order, any Member may appeal the ruling of the chair, although that is rarely done.<sup>33</sup> An appeal from the ruling of the chair is made on the grounds that the chair has misinterpreted or misapplied the rules and precedents; an appeal is *not made* on the grounds that the ruling might have an undesirable effect on the process or the underlying policy.<sup>34</sup>

The appeal is made in the following form:

Member: Mr./Madam Chairman, I respectfully appeal from the decision of the chair.

Chair: The question is, shall the decision of the chair stand as the judgment of the Committee?<sup>35</sup>

A majority vote in the affirmative sustains the ruling of the chair.

The vote on an appeal is a determination by the Committee of the Whole on the interpretation of the rule. The vote sets a precedent and could affect future rulings of the chair.

Appeals on most rulings are debatable,<sup>36</sup> and debate in the Committee of the Whole would take place under the five-minute rule.<sup>37</sup> Any Member, however, may offer a motion to close debate on the appeal.<sup>38</sup> In contrast to the common practice “in the House,” an appeal cannot be tabled in the Committee of the Whole.<sup>39</sup>

The Member who appeals a ruling may withdraw the appeal at any time before action has been taken, such as the chair putting the question to the Committee of the Whole.

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<sup>31</sup> As noted above, points of order are sometimes only in order at a specific stage. For example, a point of order against an amendment on grounds of germaneness must be made after the amendment is read or designated but before debate begins. By reserving the point of order, a Member may make the point of order after the proponent has explained it during his or her five minutes, under the five-minute rule, as explained above.

<sup>32</sup> *Deschler*, ch. 31, sec. 3.

<sup>33</sup> An appeal of the ruling of the chair is not in order if it is dilatory or untimely. *House Practice*, p. 67.

<sup>34</sup> *House Practice*, p. 66; *Deschler*, ch. 31, sec. 13.2.

<sup>35</sup> *House Practice*, p. 65.

<sup>36</sup> Debate is not in order on an appeal of a ruling of the chair on the priority of business or the relevancy of debate. *House Practice*, p. 67.

<sup>37</sup> Appeals are rare, as noted above, and debate on appeals is even rarer, but such debate may extend beyond 10 minutes.

<sup>38</sup> *House Practice*, p. 68.

<sup>39</sup> *House Practice*, p. 68.

## Parliamentary Inquiry

A Member may make a parliamentary inquiry asking for an explanation of the procedural situation or the interpretation of a House rule. Recognition for a parliamentary inquiry, however, is within the discretion of the chair. A Member recognized in debate may state a parliamentary inquiry or yield to another Member to state one without losing the floor. However, the chair will not entertain inquiries relating to a hypothetical procedural situation or the effect of a special rule not yet adopted by the House. Moreover, the chair will not interpret the meaning or effect of a legislative provision before the Committee of the Whole for consideration, a statute, or the Constitution.<sup>40</sup>

## Unanimous Consent Requests

This report has noted several actions that can be taken “by unanimous consent.” As implied, unanimous consent requests effectively require the support of all Members, or the absence of an objection from any Member, to set aside the procedures that would otherwise be followed in a particular situation. For convenience, Members sometimes ask for unanimous consent to take actions that could also be taken by motion. Examples of typical unanimous consent requests in the Committee of the Whole include requests that an amendment be withdrawn or that an amendment be considered as read.

Not all rules and procedures can be set aside by unanimous consent; in fact, unanimous consent requests in the Committee of the Whole, as opposed to those allowed “in the House,” are somewhat limited. It is not in order in the Committee of the Whole to ask for unanimous consent to take any action that is properly within the jurisdiction of the House. A Member cannot ask for unanimous consent, therefore, to take actions in the Committee of the Whole that could not be done by motion, such as to reconsider a vote on an amendment.<sup>41</sup>

Furthermore, special rules also limit the unanimous consent requests Members might make regarding the consideration of a measure. Unanimous consent requests are in order only if they make “minor variances that are congruent with the controlling special order of the House.”<sup>42</sup>

When a unanimous consent request is made, a Member opposed to the request may simply state:

Mr./Madam Chairman, I object.

A single objection would defeat a unanimous consent request.

Unanimous consent requests are not normally debatable. However, if the Member wishes to explain his or her objection, or perhaps obtain an explanation of the unanimous consent request, then the Member could instead rise and announce:

Mr./Madam Chairman, reserving the right to object...

It is up to the chair to decide whether and how long to recognize a Member to speak on a reservation of the right to object to a unanimous consent request. When speaking on a reservation of objection, the Member may yield to other Members to engage in a colloquy. Any other Member, however, might demand the regular order and the Member reserving the right to object

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<sup>40</sup> *House Practice*, pp. 690-693.

<sup>41</sup> For a list of unanimous consent requests that cannot be made in the Committee of the Whole, see (1) *House Practice*, p. 915; and (2) *House Rules and Manual*, sec. 993a.

<sup>42</sup> *House Practice*, p. 914.



would lose the floor. The chair would then state the question, “Is there any objection to the request of the gentleman (or gentlewoman)?,” and the Member could object if he or she wished.

## **Motions to Rise**

The House resolves out of the Committee of the Whole by the Committee “rising.” The motion to rise may appear in several different forms: to rise, when it has not concluded consideration; to rise and report, when it has concluded consideration; or in conjunction with an attempt to strike the enacting (or resolving) clause.

### **Simple Motion to Rise**

Generally, the simple motion to rise is made to resolve out of the Committee of the Whole and back to the House when the Committee of the Whole has not completed its work on a measure. Any Member may offer a motion to rise.<sup>43</sup> The motion is made in the following form:

Mr./Madam Chairman, I move that the Committee do now rise.<sup>44</sup>

The simple motion to rise is of the highest privilege; it takes precedence over other motions, for example, to amend (during debate under the five-minute rule) and to rise and report with the recommendation that the enacting clause be stricken (see “Relating to the Enacting (or Resolving) Clause” section, below). A simple motion to rise is in order even if a special rule provides that the Committee shall rise and report at the conclusion of its consideration of the bill.<sup>45</sup> In recent Congresses, however, special rules have sometimes prohibited a motion to rise unless offered by the chair of the committee of jurisdiction.

A motion to rise is not debatable, and the chair puts the question to the Committee of the Whole immediately. The simple motion to rise does not require a quorum for adoption. In other words, even if only a few Members are present on the floor (a quorum in the Committee of the Whole is 100 Members), those few Members can agree to a motion to rise. On the other hand, if the simple motion to rise fails by voice vote when less than a quorum is present on the floor, then a Member can make the point of order that a quorum is not present, pending a request for a recorded vote (for more details on voting and quorums, see “Voting and Quorum Procedures” section, below).<sup>46</sup>

If the motion to rise is agreed to, the Committee of the Whole converts itself back into the House and the pending business is left as unfinished. It is resumed from the same point when the House resolves into the Committee of the Whole to consider that measure further.

### **Motion to Rise and Report**

The Committee of the Whole recommends action on a measure to the House. It does this by rising and reporting the measure with a recommendation, typically to adopt amendments agreed to in the Committee of the Whole; it may accomplish this action by motion.

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<sup>43</sup> A Member to whom time is yielded for debate only may not offer a motion to rise. However, a majority or minority Member controlling time during general debate may yield to a Member for the purposes of offering a motion to rise. *House Practice*, pp. 336-337.

<sup>44</sup> *House Practice*, p. 335.

<sup>45</sup> *House Practice*, p. 334.

<sup>46</sup> *House Practice*, p. 335.

After all parts of a measure have been read for amendment in the Committee of the Whole, and no further amendments are offered or are in order, a Member may offer a motion to rise and report the measure back to the House, ending the consideration of the measure in the Committee of the Whole and recommending that the House formally accept the Committee's actions. A Member (usually, in practice, the floor manager) may state:

Mr./Madam Chairman, I move that the Committee do now rise and report the bill (or resolution) back to the House with the recommendation that....<sup>47</sup>

Under current practice, however, the special rule for consideration of a bill usually provides that "At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted." When a special rule includes such language, a motion to rise and report the measure is not necessary.

However, after a general appropriations bill has been entirely read for amendment, under House Rule XXI, clause 2(d), the majority leader or a designee may make a motion to rise and report, even when a special rule provides for the Committee of the Whole to rise and report without motion. Such a motion by the majority leader or a designee has precedence over any further motions to amend the bill. If such a motion is defeated, or the motion is not made, a Member may offer an amendment proposing a limitation (i.e., a restriction on how some funds in the bill may be used).<sup>48</sup>

### **Relating to the Enacting (or Resolving) Clause**

Under regular House rules, at any point after the clerk has begun to read the bill (or resolution) for amendment under the five-minute rule, a Member may move that the Committee of the Whole rise and report with the recommendation to strike the measure's enacting (or resolving) clause.<sup>49</sup> The special rule providing for the consideration of the bill might prohibit this motion, however.

If the motion is successful and the House then accepts the recommendation, the measure effectively is rejected. If the motion is successful but the House rejects the recommendation, the House automatically resolves itself back into the Committee of the Whole for further consideration of the legislation.<sup>50</sup> If the motion is unsuccessful, the Committee of the Whole continues consideration of the legislation.

A motion to rise and report with the recommendation to strike the enacting (or resolving) clause must be made in writing and in the proper form. Thus, to avoid a point of order, a Member must offer the motion in the following form:

Mr./Madam Chairman, I move that the Committee of the Whole do now rise and report the bill (or resolution) back to the House with the recommendation that the enacting (or resolving) clause be stricken.<sup>51</sup>

A Member offering the motion to rise and report with the recommendation to strike the enacting (or resolving) clause must be opposed to the bill; a Member simply indicates as much to the chair

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<sup>47</sup> *House Practice*, p. 335.

<sup>48</sup> For further information on limitation amendments to general appropriations bills, see CRS Report R41634, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, by James V. Saturno.

<sup>49</sup> The motion is not in order during general debate, or when a Member has obtained the floor for purposes of debate. *House Practice*, p. 332.

<sup>50</sup> *House Practice*, p. 331.

<sup>51</sup> *House Practice*, p. 331.

if or when challenged. Debate on the motion is limited to 10 minutes: five minutes in favor and five minutes in opposition.<sup>52</sup> If the Committee of the Whole rejects a motion to rise and report with the recommendation to strike the enacting (or resolving) clause, a second such motion may be offered only after a material modification has been made to the measure (e.g., after the measure has been amended), or on a subsequent day.<sup>53</sup>

Although the practice is not necessarily common, a Member might offer a motion to strike the enacting (or resolving) clause in order to obtain time for debate, especially in a situation when no time for debate is otherwise available.<sup>54</sup>

## Voting and Quorum Procedures

Pursuant to House standing rules, a quorum for conducting business in the Committee of the Whole is 100 Members (House Rule XVIII, clause 6(a)). A quorum is always presumed to be present unless it is otherwise demonstrated through a process that begins when a Member makes a point of order on the floor. Generally, however, the only time that Members can make the point of order that a quorum is not present is when a vote is about to take place.<sup>55</sup>

Three kinds of votes can take place in the Committee of the Whole: voice, division, and recorded. To conduct a voice vote, the chair asks all those in favor to say aye and all those opposed to say no. The chair then announces his or her opinion as to the outcome of the vote. In a division vote, which is rarely requested in current practice, the chair asks Members in favor of the question to stand to be counted. The chair then asks all those opposed to stand and be counted, and announces the results of the count. A recorded vote is conducted by an electronic voting system; Members use a card to record their votes as yea, nay, or present. In most circumstances, the chair is required to allow a minimum of 15 minutes for a recorded vote (House Rule XX, clause 2(a)). Only a recorded vote reveals how individual Members voted.

All votes in the Committee of the Whole are first taken as voice votes. After the chair announces his or her opinion of the outcome of the vote, but before he or she makes the result final, any Member might demand a division vote by standing and saying:

Mr./Madam Chairman, I ask for a division.

As noted above, a quorum is presumed to be present. Therefore, both voice votes and division votes are valid votes even if a quorum may not have been present, as long as no Member made the point of order that a quorum was not present.

According to House rules, a request for a recorded, or electronic, vote in the Committee of the Whole requires the support of 24 Members in addition to the Member making the request. To secure a recorded vote in the Committee of the Whole, a Member can rise (again after the chair announces his or her opinion as to the results of a voice or division vote but before the results are made final by the chair) and state:

Mr./Madam Chairman, I request a recorded vote.

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<sup>52</sup> *House Practice*, p. 333.

<sup>53</sup> *House Practice*, p. 332.

<sup>54</sup> *House Practice*, p. 332.

<sup>55</sup> This section summarizes a much more thorough treatment of voting and quorum procedures in CRS Report 98-988, *Voting and Quorum Procedures in the House of Representatives*.

The chair might then ask Members who support the request to stand. If a sufficient number rise in support, then there will be a recorded vote on the question.

Under clause 6(g) of House Rule XVIII, the chair can postpone the request for a recorded vote on any amendment. When a Member requests a recorded vote on an amendment, the chair might state that further proceedings on the amendment are postponed. It is not uncommon for the chair to postpone the vote on several amendments and for the Committee of the Whole to vote on a series of amendments, one right after the other, at a later time. In other words, the chair has the authority to “cluster” or “roll” votes on amendments. After the first vote is held, clause 6 of House Rule XVIII allows the chair to reduce the minimum time for an electronic vote from 15 minutes to not less than two minutes.

In some situations, a Member might not believe there is sufficient support for a recorded vote, perhaps because only a few Members are present on the floor. In that case, the Member can instead say:

Mr./Madam Chairman, I request a recorded vote and, pending that, I make a point of order that a quorum is not present.

If the request is for a vote on an amendment, the chair still can postpone the vote under House Rule XVIII and the point of order of no quorum is considered withdrawn.<sup>56</sup>

Alternatively, if the chair determines that a quorum is not present, he or she can immediately order a quorum call in response to the Member’s request and point of order. Members then usually have approximately 15 minutes to reach the floor and record their presence by electronic device. After the quorum call, the chair will then ask if there are 24 Members, in addition to the Member who made the request, who support the demand for a recorded vote. If there are, a vote on the question is held, by electronic device.

A record vote by the House proper on an amendment is required by House rules in one particular situation. Delegates and the Resident Commissioner are permitted to vote in the Committee of the Whole but not in the House proper (because they are not Members of the House as defined by the Constitution). Furthermore, if the vote of the Delegates and/or Resident Commissioner would make a difference in the outcome of the vote, the Committee of the Whole will automatically rise and vote on the amendment again in the House proper. For more information, see CRS Report R40170, *Parliamentary Rights of the Delegates and Resident Commissioner from Puerto Rico*, by Jane A. Hudiburg.

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<sup>56</sup> *House Practice*, p. 765.

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