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Considering Legislation on the House Floor: Common Practices in Brief

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Summary

This brief overview explains the most common ways legislation is considered on the House floor, and it describes the types of questions most likely to be voted on and the opportunities for legislative debate that are most frequently used by Members.

The most common method used to consider bills and resolutions in the House is suspension of the rules. This method has evolved as a way for measures that enjoy widespread support to be quickly processed by the House. A motion to suspend the rules and pass a bill is debatable for 40 minutes. The Member making the motion controls 20 minutes of the time, and another Member controls the other 20 minutes of time. When debate has concluded, a single vote is held on the question of suspending the rules and passing the measure. Members cannot offer amendments from the floor, but an amendment might be included in the motion. A two-thirds vote is required to pass a measure under suspension. Many suspension motions are passed by voice vote.

Most major bills, however, are considered through a multi-stage process involving the Committee on Rules. Special rules are House resolutions reported by the Committee on Rules that set the terms for debating and amending measures. Through special rules, the House majority can customize floor procedures for considering each bill. The House first approves a special rule and then considers the bill under the terms of that rule. After an hour of debate on a special rule, a Member typically moves the previous question, a motion that proposes to end consideration of a matter. The previous question is almost invariably agreed to, and the House then votes on approving the special rule.

When a measure is considered under the terms of a special rule, there is first a period for general debate on the bill. After general debate, there might be an opportunity to offer amendments to the bill, but it depends on the special rule. A closed rule is one that does not allow amendments to be offered from the floor. Under an open rule, in contrast, Members can offer any amendment that does not violate a House rule, including statutory provisions that the House has designated to function as House rules, such as the Budget Act. More commonly today, amendments are offered under rules that allow specific amendments identified in the report of the Rules Committee accompanying the special rule. If several amendments will be considered, the rule provides that the House resolve into the Committee of the Whole, a parliamentary device designed to allow more efficient consideration of legislation than provided when the House meets in other forms. Before the House votes on final passage of a measure, it rises from sitting as Committee of the Whole and returns to sitting as the House. There is then typically a record vote on a motion to recommit. In its most common form today, the motion to recommit is made with instructions, which is effectively a last opportunity for a minority party Member to offer an amendment.

A bill or joint resolution must pass both the House and the Senate in precisely the same form before it can be sent to the President. Historically, the House has resolved its differences with the Senate on major legislation through conference committees (panels of Representatives and Senators from the committees of jurisdiction who meet to negotiate a compromise version of the bill). The resulting recommended legislation—the conference report—must be approved by both the House and Senate and cannot be amended. Sometimes, the House and Senate resolve their differences not through conference committee, but through amendments between the houses. In this process, the chambers shuttle a measure back and forth until they both agree to the same text.

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Introduction

The decision-making processes of the House of Representatives have developed from English parliamentary procedure, American-colonial legislative practice, and over 225 years of federal lawmaking activity. The Constitution, a set of written rules, statutes, and 29 volumes of recorded precedent together guide the House's legislative actions. The legislative process has the potential to be complicated. This overview explains only the most common ways legislation is considered on the House floor, and it describes the types of propositions most likely to be voted on and the opportunities for legislative debate most frequently available to and used by Members.¹ For a more comprehensive introduction to the fundamental principles and procedures that apply in multiple situations on the House floor, see CRS Report 95-563, *The Legislative Process on the House Floor: An Introduction*. References to other more comprehensive CRS reports on specific subjects are provided in footnotes throughout this overview.

Suspension of the Rules

Although the House has a number of possible procedures from which to choose, the most frequently used method to approve bills and resolutions² in the House is known as “suspension,” short for suspension of the rules. This method has evolved as a way for measures that enjoy widespread support to be quickly processed by the House.

The decision as to what measures will be taken up under this procedure normally begins in the committee with jurisdiction over the legislation. If there is bipartisan agreement in the committee that a measure is a good candidate for suspension, committee leaders make that recommendation to party leaders. The Speaker has authority under House rules to determine which measures will be considered under suspension of the rules, and when. Members are notified of measures to be considered by suspension procedures through daily and weekly leadership announcements and whip notices.

Debate of Motion to Suspend the Rules

The floor process begins when a Member, typically a committee or subcommittee chair, makes a motion on the House floor to “suspend the rules and pass [the bill].”³ Members cannot offer amendments from the floor. Sometimes the form of the bill the committee wishes to consider includes changes to the text as introduced, in which case the motion made will be to “suspend the rules and pass [the bill] as amended.” In such cases, the amendments would not be debated or voted on separately.

¹ For information on all of the different ways legislation can be considered on the House floor and their frequency of use, see CRS Report R44734, *How Legislation Is Brought to the House Floor: A Snapshot of Parliamentary Practice in the 114th Congress (2015-2016)*, by Christopher M. Davis.

² Throughout this report, the terms *bill* and *measure* are used interchangeably to refer to all bills and resolutions. There are, however, four distinct forms of legislation: a bill (H.R. or S.), a joint resolution (H.J.Res. or S.J.Res.), a concurrent resolution (H.Con.Res. or S.Con.Res.), and a simple resolution (H.Res. or S.Res.). For more information, see CRS Report 98-728, *Bills, Resolutions, Nominations, and Treaties: Characteristics, Requirements, and Uses*, by Richard S. Beth and CRS Report 98-706, *Bills and Resolutions: Examples of How Each Kind Is Used*, by Richard S. Beth.

³ The measure might be one that the committee marked up and reported to the House, or it might be one that was not reported by committee. Measures not reported by committee are generally not eligible for floor consideration under House rules, but the motion proposes to “suspend the rules.”

The motion to suspend the rules is debatable for 40 minutes. The majority party Member making the motion controls 20 minutes of the time, and another Member, typically the minority party committee leader, controls the other 20 minutes of time. Members who wish to speak on the motion are yielded portions of time, usually between one to five minutes, from one of these two floor managers. Often, the allocation of debate time is arranged in advance, with a Member's personal staff contacting the committee staff, it can also be arranged among Members during the debate.⁴

Voting on Motions to Suspend the Rules

When debate has concluded, a single vote is held on the question of suspending the rules and passing the measure with any amendment that might have been included in the motion. Two-thirds of Members voting must agree to the motion.

Many suspension bills are passed by voice vote. In a voice vote, the Speaker asks all those currently on the floor to say aye, all opposed to say no, and determines what is the prevailing side, in practice almost always picking the position of the majority party. There is no record of how individual Members voted, and often only a few Members are present on the floor at the time of the voice vote. Sometimes, however, a Member will request that there be a record vote.⁵ If so, Members are alerted that a vote is occurring by a bell and light call system and come to the floor and vote by electronic device by inserting their voting cards into machines. In contrast to a voice vote, there is a record of how each individual Member voted. Most of the time, for the convenience of all Members, the Speaker postpones record votes on suspension motions, holding a series of votes later in the day on each motion on which a record vote was requested.⁶ The House typically agrees to motions to suspend the rules and pass bills, but if such a motion fails, that does not affect the status of the bill. The bill remains eligible to be taken up through another procedure (or through a later motion to suspend the rules).

Under the Terms of a Special Rule

Especially for measures on which the consideration of amendments may be desired or that are unlikely to garner the necessary two-thirds support to pass under suspension, the House relies on "special rules."⁷ They are "special" in that they are an adaptation of House rules for consideration of particular measures. A special rule is a procedural proposal reported by the Committee on Rules (in the form of a House resolution) that sets the terms for debating and amending a measure. The Committee on Rules, which is made up of nine majority party Members and four minority party Members, drafts and reports these resolutions, although they have effect only if agreed to by a majority of House Members voting. Under this method of proceeding, the House first approves a special rule and then it considers a bill under the terms of that rule. This is the second most common method, after suspension of the rules, used to consider bills.

⁴ For more information, see CRS Report RS22991, *Speaking on the House Floor: Gaining Time and Parliamentary Phraseology*, by Elizabeth Rybicki

⁵ For more information, see CRS Report RS20208, *Obtaining a Record Vote on the House Floor*, by Richard S. Beth.

⁶ For more information, see CRS Report 98-228, *House Voting Procedures: Forms and Requirements*, by Walter J. Oleszek.

⁷ For more information, see CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by Richard S. Beth.

Special rules allow the House to customize procedures for considering each bill. The versatility of special rules is their strength, but it is still possible to generalize about their contents. First, it is common for the special rule to propose that a text other than the text of a bill as introduced be the basis for House consideration. For example, a special rule might state that a complete substitute amendment recommended by the committee with jurisdiction over the bill be considered the base text subject to further amendment. In instances in which multiple committees have jurisdiction over a bill, the base text the special rule makes in order might reflect negotiations among committee and party leaders.

Second, special rules generally fall into three broad categories based on the opportunities they provide for amendment.⁸ Open rules allow any floor amendments that are otherwise in order under the regular procedures of the House. Closed rules do not allow any amendments to be offered from the floor. Structured rules typically allow amendments that are specified in the printed report accompanying the special rule.

There are three stages for considering legislation on the House floor under a special rule: Rules Committee action, House action on the rule, and House action on the bill.

Rules Committee Action

The process for taking up a legislative proposal under the terms of a special rule normally begins with the committee or committees with jurisdiction over the proposal. The chair of the committee of jurisdiction (or of the primary committee if the measure had been referred to more than one committee) writes to the Rules Committee and requests a rule for the consideration of a bill on the House floor. Most measures taken up by special rule have been considered in a public committee meeting, where members of the committee had an opportunity to propose amendments and to vote to order the legislation reported, which normally constitutes a recommendation that the House pass the measure with any amendments approved by the committee.

If the Rules Committee, usually in response to a request from the reporting committee, decides in consultation with majority party leaders that a measure will be considered under the terms of a special rule, it makes this announcement to the House on the committee's website. As mentioned above, it is not uncommon at this stage for the Rules Committee to propose modifications of the text of the bill that was introduced or reported from the primary committee, and this modified text is typically presented as a committee print. If requested to do so by the Rules Committee, Members may submit any proposed amendments to the text. The Rules Committee holds a hearing at which only Members of the House testify.⁹ In appearing before the Rules Committee, Members typically ask that they be permitted to offer their amendments to the bill. If an amendment as drafted violates any rules of the House—such as, for example, the House rule that amendments be germane—then a Member wishing to offer it requests a waiver of that rule in order that the amendment be allowed.

After the hearing, the Rules Committee meets to consider the special rule. Members of the committee might vote on whether or not to allow specific amendments to be offered or waivers to be included. At the end of the meeting, the Rules Committee votes to report a special rule to the

⁸ For more information, see CRS Report 98-612, *Special Rules and Options for Regulating the Amending Process*, by Megan S. Lynch.

⁹ For more information, see CRS Report 98-313, *House Rules Committee Hearings on Special Rules*, by Megan S. Lynch.

full House for its consideration. A Rules Committee report on the special rule is prepared, and the report typically includes the text of any specific amendments made in order by a structured rule.

House Action on the Rule

The chair of the Rules Committee, or another Rules Committee member serving as majority floor manager, calls up a special rule on the floor at a time arranged in advance with majority party leadership. The Rules Committee chair is recognized for one hour, and by custom he yields 30 minutes to the ranking minority party member of the Rules Committee (or another minority party member serving as a floor manager) to use for debate only (so that the time may not be used to propose amendments to the resolution or make any other motion). Members who wish to speak on the special rule are yielded portions of time, typically a minute or two, from one of these two Members. Typically, Members (or their staff) arrange in advance to be granted time to speak.

At the end of an hour, the Rules Committee majority floor manager will “move the previous question,” and the House votes on the motion. The previous question motion effectively asks whether the House is ready to vote immediately on the main question. (In this case: Is the House ready to vote on adoption of the special rule?) Majority party Members usually vote for the previous question, and the question is therefore almost always decided in the affirmative. Minority Members who urge a “no vote” on the previous question are doing so because, if the previous question was defeated, the Speaker would recognize the leader of the opposition for one hour. During that hour, the opponent could propose changes to the special rule, perhaps to allow more minority party amendments to be offered to the bill. Members in opposition to the special rule often characterize the previous question vote as a vote related to such amendments. The vote on the previous question on a rule is often a record vote, meaning Members use the voting machines on the floor. Once that motion is agreed to, the House votes immediately on the question of approving the special rule, and this question is often decided by record vote as well.

House Action on the Bill

Once a special rule providing for consideration of a certain bill is approved by the House, the Speaker determines the schedule for consideration of that bill. The House typically considers the bill shortly after the special rule governing its debate and amendment is approved, and often immediately after.

If Members of the House are allowed, under the terms of the special rule, to offer amendments to the bill, then the first step in the process is for the Speaker to declare the House “resolved into Committee of the Whole House on the State of the Union.” The so-called Committee of the Whole is a parliamentary device designed to allow more efficient consideration of legislation than is available in the House in its different forms.¹⁰ The House first conducts a period of general debate on the bill, the length of which is set in the special rule but which is typically an hour or more. During general debate, Members are yielded time to speak on the bill, usually by prior arrangement, from one of the two floor managers (typically the chair and ranking minority party member of reporting committee). Typically, a period of debate time is provided on a bill even if the special rule is closed and no amendments are therefore in order.

After general debate on the bill, there might be an opportunity to offer amendments to it, although this depends on the special rule. As noted, closed rules do not allow amendments to be offered

¹⁰ For more information, see CRS Report RL32200, *Debate, Motions, and Other Actions in the Committee of the Whole*, by Bill Heniff Jr. and Elizabeth Rybicki.

from the floor. Under an open rule, in contrast, Members can offer any amendment that does not violate a House rule, including statutory provisions that the House has designated to function as House rules, such as the Budget Act. Under an open rule, a bill would be read section by section (or paragraph by paragraph), and amendments would only be in order to the section (or paragraph) that had just been read. A Member wishing to offer an amendment would do so at the time the relevant section was before the House. Any amendment offered would be considered under the five-minute rule, with the proponent and an opponent each having five minutes to debate the amendment. Other Members could secure debate time by offering a motion to “strike the last word,” an amendment in form only that serves to give a Member five minutes to speak.¹¹ An open rule typically does not restrict how long this process can last, although discussion can be curtailed by motion or by unanimous consent.

More commonly in the contemporary House, amendments are offered under a structured rule. In this situation, the amendments that may be offered and the Members who may offer them are identified in the report accompanying the special rule. The chair of the Committee of the Whole would recognize Members to offer amendments in the order provided in the Rules Committee report, and each amendment would be debated for the length of time specified in the report, often ten minutes. If Members wish to speak on an amendment, they must be yielded a portion of time from the amendment sponsor or the Member recognized to control the time against the amendment.

At the conclusion of the amending process, the Committee of the Whole “rises” and “reports” the bill to the full House with any amendments it has approved. The House must then itself approve any amendments agreed to in the Committee of the Whole. Typically, these steps occur quickly, without record votes.

Before the House votes on final passage of a measure considered pursuant to a special rule, there is typically a record vote on a motion to recommit.¹² In its most common form, the motion to recommit is made with instructions, which is effectively a last opportunity for a Member of the minority party to offer an amendment to the bill. It proposes that the measure be sent back to committee, but it also usually proposes that the committee immediately report the bill back with an amendment.¹³ The motion is debatable for ten minutes. Typically the first five minutes is used by the minority party member who made the motion (often the senior minority party member of the committee of jurisdiction) and the second five minutes is used by the majority floor manager, (often the committee chair). The amendment proposed in the instructions of a motion to recommit is not usually available in advance, so Members rely on floor statements (or descriptions from floor staff provided after it is offered) to learn its content. Most motions to recommit fail. After the vote on the motion to recommit, the House votes on passing the bill.

Reaching Agreement with the Senate

Passage of a measure through the House is a crucial stage of the legislative process, but a bill or joint resolution must pass both the House and the Senate in precisely the same form before it can

¹¹ For more information, see CRS Report 98-995, *The Amending Process in the House of Representatives*, by Christopher M. Davis.

¹² For more information, see CRS Report 98-383, *Motions to Recommit in the House*, by Megan S. Lynch.

¹³ Despite what the language of the motion implies, a committee would not actually meet or take action if a motion to recommit with instructions was successful. Instead, the chair of the committee would immediately rise and offer the amendment, as instructed.

be sent to the President.¹⁴ This requirement means, first, that the House and Senate must both act on the same measure and, second, that if one chamber agrees to a measure of the other with amendments, the chambers must negotiate a text they can both agree to, using either a conference committee or an exchange of amendments between the houses.

Conference Committee

Historically, the House has resolved its differences with the Senate on major legislation through conference committees, or panels of Representatives and Senators from the committees of jurisdiction who meet to negotiate a compromise version of the bill. The resulting recommended legislation—the conference report—must be approved by both the House and Senate. In the House, a conference report is typically considered for one hour under the terms of a special rule. No amendments are in order to a conference report, as it is meant to reflect the final compromise between the chambers.¹⁵

Amendments Between the Houses

Sometimes, the House and Senate resolve their differences not through conference committee, but through amendments between the houses, or what is popularly known as “ping pong.” In this process, the House and Senate shuttle a measure back and forth between them, each proposing alternatives in the form of amendments until they both agree to the same text. When the House considers a Senate amendment, it might do so under a motion to suspend the rules, as described above, or, when the legislative proposal is unlikely to get the support of two-thirds of the House, under the terms of a special rule. It is very unlikely that Members will have an opportunity to offer amendments from the floor or to make a motion to recommit the Senate amendment.¹⁶

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¹⁴ This requirement also applies to joint resolutions proposing constitutional amendments and to concurrent resolutions, even though neither are sent to the White House for the President’s signature or veto. House and Senate resolutions, on the other hand, do not require action by the other body.

¹⁵ For more information, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki.

¹⁶ For more information, see CRS Report R41003, *Amendments Between the Houses: Procedural Options and Effects*, by Elizabeth Rybicki.