

CRS Report for Congress

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Amendment Process in the Committee of the Whole

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Amendments are usually considered not in the House, but in the Committee of the Whole, a parliamentary device designed to expedite the amendment process. For example, in the House, Members are generally recognized under the “hour rule;” in the Committee of the Whole, they are recognized to speak under the “five-minute rule.” A quorum in the House is 218; in the Committee of the Whole, 100.

This report is a companion to CRS Report 98-426, *Amendments on the House Floor: Summary of Major Restrictions*. For more information on legislative process, see [<http://www.crs.gov/products/guides/guidehome.shtml>].

Reading for Amendment

Unless a special rule from the Rules Committee specifies otherwise, a bill is usually read for amendment (second reading) by section. (Bills can also be read for amendment by title, or be open to amendment at any point; the special rule will identify how the measure is to be amended.) Generally, Members may offer germane amendments to a section only after the clerk has designated that section. If the next section has been reached, the opportunity to offer an amendment to the previous section has passed. A Member needs unanimous consent to return to a section that has been completed.

When the first section of a measure is read or designated, amendments recommended by the committee reporting the bill, referred to as “committee amendments,” are automatically considered without having to be offered from the floor. (The special rule frequently provides that each section be considered as read, thus the clerk will merely “designate” the pending section). The special rule may provide that once adopted, the committee amendment becomes part of the base text and open for further amendment. Members are then recognized to offer individual amendments. Priority recognition from the chair is generally given to members of the committee of jurisdiction, and by seniority on that committee. Recognition usually alternates between the parties.

Debating an Amendment

Amendments are debated under the five-minute rule, with the proponent and a member opposed being recognized to speak first. Other members can then offer pro forma amendments, by moving “to strike the requisite number of words.” Pro forma amendments are merely a device to gain five minutes of time without having to offer an actual amendment. At the end of the five minutes, the pro forma amendment is considered withdrawn. Unanimous consent is needed to speak longer than five minutes.

During debate under the five-minute rule, Members may yield to other Members, but they may not specify a particular amount of time. Members also are precluded from reserving any of the five minutes they are recognized for. Finally, when a Member yields to a colleague, at any point that Member may “reclaim my time.”

Debate can be limited or ended, absent a provision in a special rule, either by unanimous consent or by a motion to end or limit debate. (The previous question is not in order in the Committee of the Whole.) A Member, usually the bill’s floor manager, may ask that debate be limited on a specific amendment, a section of the bill, or the entire measure, if it has been read for amendment or is open to amendment at any point. The motion may specify a specific time, such as 8:00 p.m., or in a set number of hours, with time generally divided by party, or among Members standing for recognition at the time the motion or request is made.

Amendment Tree: Degrees of Amendments

An amendment to the base text is called a first-degree amendment. Such a first-degree amendment can be further amended by either a substitute or a perfecting amendment. The substitute is also subject to a perfecting amendment. As such, perfecting amendments are called second-degree amendments, while the substitute is considered a first-degree amendment. These amendments together constitute what is referred to as the amendment tree.

The perfecting amendment to the amendment to the bill is voted on first; the perfecting amendment to the substitute is voted on second; the substitute is voted on third; and the base amendment to the text is voted on last. When an amendment has been disposed of, and a branch of the tree is then open, an additional amendment may still be in order, provided the amendment does not amend only what has already been amended.

Voting on Amendments

Once debate has concluded, the chair will automatically put the question on the pending amendment and announce the voice vote’s outcome. Any Member may demand either a division vote, where Members would stand to be counted, or a recorded vote, requiring a sufficient second of 25 Members. In order to obtain a recorded vote when the requisite 25 members are not in the chamber, a Member says, “I request a recorded vote and, pending that, I make a point of order that a quorum is not present.”