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Offering an Amendment on the House Floor: Current Practice

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SUMMARY

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Offering an Amendment on the House Floor: Current Practice

Major legislation is usually considered in the House under a two-step process. First, the House agrees to a resolution reported by the Committee on Rules that sets the terms for considering that legislation. Second, the House considers the legislation under the terms set by the resolution. In modern House practice, amendments are only offered on the House floor if these resolutions, known as *rules* or *special rules*, permit them. In other words, the only practical opportunity Members have to offer amendments to legislation considered on the floor is if a special rule makes them in order. This type of special rule is referred to as a *structured rule*, and its accompanying committee report will identify which amendments are permitted to be offered on the floor.

The process begins when the committee with jurisdiction over a bill informs the Committee on Rules—which acts in coordination with majority party leadership—that it would like the bill to be considered under a rule. If the Rules Committee chooses to schedule a hearing regarding the consideration of the bill, it will announce the date, time, and location of the meeting for the awareness of all Members. For bills that may have an amending process on the floor, the Rules Committee will separately circulate a "Dear Colleague" letter specifying the text to which amendments should be drafted and deadlines for submission to the committee for consideration. Amendments demonstrating broad bipartisan support (meaning, at least 20 Democratic and 20 Republican supporters) that have been filed on time and are also in compliance with House rules and procedures are afforded preference by the Rules Committee for possible consideration under the special rule.

Rules Committee meetings to consider a special rule consist of two parts: a hearing during which Members testify before the committee and then a markup of the text of the special rule itself. During the hearing portion, testimony is typically heard from the chair and ranking member of the committee with jurisdiction over the legislation proposed for consideration under a rule. Other Members may also choose to give brief testimony in support of their proposed amendments, though this step is not required for an amendment to receive consideration by the Rules Committee. The markup of the special rule affords Rules Committee members the opportunity to debate the text of the proposed resolution, offer amendments to it, and ultimately vote on reporting the resolution to the House.

The House must first take up and agree to a special rule before its provisions can go into effect. Once called up, a special rule is debated for one hour, with time controlled by the chair of the Rules Committee, who typically yields 30 minutes to the ranking member for purposes of debate only. After one hour of debate, a majority Member will move the previous question in order to end debate on the special rule and proceed immediately to a vote on its adoption. A vote against moving the previous question is often characterized as a policy vote by Members opposed to the special rule. If the motion is defeated, a Member opposing the rule would be recognized for the next hour of debate and would have the opportunity to offer amendments to the resolution. Majority Members usually vote in favor of ordering the previous question, and it is therefore rarely defeated.

Once a special rule is adopted by the House, legislation considered under its terms is first subject to a period of general debate before amendments are considered. Legislation and its amendments may be considered initially in a parliamentary forum known as the *Committee of the Whole* if directed by the special rule. Which amendments may be offered, by whom, and for how long they may be debated will all be specified in the text of the special rule. Some special rules allow for amendments to be offered *en bloc*, whereby multiple amendments are called up, considered, and disposed of all together as a single package. A Member is typically recognized for five minutes of debate after calling up an amendment, and, once offered, an amendment can only be withdrawn by unanimous consent unless otherwise permitted by the special rule. When amendments are considered and approved in Committee of the Whole, they are then usually subsequently approved in the House by voice vote.

Members may choose to seek a recorded vote on an amendment. Proceedings on requests for recorded votes are routinely postponed and clustered by the presiding officer in such a way that affords Members the convenience of voting on a series of questions one after another at a scheduled time instead of as requests occur on the floor.

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Introduction

In current practice, the House determines in advance whether Members will have an opportunity to propose changes to legislation being considered on the chamber floor. If the House chooses to allow Members to offer amendments to a measure, then the measure will be considered under a process involving the Committee on Rules.[1] Members submit amendments to the Rules Committee that they hope to offer to bills expected to be taken up on the floor. The Rules Committee, which acts in coordination with majority party leadership, works with the committee (or committees) that have jurisdiction over the policy in the legislation and recommends to the full House which amendments (if any) can be called up, debated, and voted on.[2]

The Rules Committee formally makes this recommendation by reporting a resolution (H.Res.), commonly referred to as a *rule*, *special order of business*, or *special rule* (to distinguish it from the standing rules of the House). The rule limits the amendments that can be offered to only those identified in an accompanying Rules Committee report. This type of rule is called a *structured rule*. The full text of the permitted amendments are printed in that report, which is made available prior to floor consideration of the special rule. After the House has agreed to the rule, the only amendments that can be offered to that bill are the ones identified in the Rules Committee report.

This report summarizes the process Members follow to have their proposed amendments evaluated for floor consideration by the Rules Committee and the procedures for offering an amendment on the floor if permitted by a structured rule. For a broader overview of the process for considering legislation in the full House, see CRS Report R43424, *Considering Legislation on the House Floor: Common Practices in Brief*. For more detailed information on drafting amendments, including what is permitted under the regular rules and procedures of the House, see CRS Report 98-995, *The Amending Process in the House of Representatives*.

Submitting an Amendment to the Rules Committee

Determine the Text to Be Amended

The House decides which amendments will be permitted to be offered on the floor on a bill-by-bill basis, and congressional staff must learn what legislation is coming to the floor before they can begin drafting amendments. Some bills, including the regular appropriations bills and the National Defense Authorization Act, are expected to be considered every year. Congressional offices can therefore begin planning amendments related to these bills even before their consideration is scheduled; it is usually the case that the House approves a rule that permits dozens of amendments to be offered to these bills. For other legislation, however, staff must pay attention to leadership communications and committee activity in an effort to anticipate bills likely to receive floor consideration.

[1] Throughout this report, the terms *bill* and *measure* are used interchangeably to refer to all forms of legislation. For more information, see CRS Report R46603, *Bills, Resolutions, Nominations, and Treaties: Characteristics and Examples of Use*.

[2] The Rules Committee has long consisted of nine majority party members and four minority party members, reflecting the critical role of the Rules Committee in setting the floor agenda. See also CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*.

Shortly before a bill is expected to be debated on the floor, the Rules Committee prepares a "Dear Colleague" letter and posts it on the Rules Committee website announcing its intent to report a rule for the consideration of a particular bill.[3] This announcement will indicate whether or not the Rules Committee expects to recommend that amendments be permitted to the bill. In the past several Congresses, the Rules Committee has reported rules in one of two forms: *structured rules*, which allow only the amendments identified in the accompanying rules committee report, and *closed rules*, which do not allow any floor amendments.[4] When the intent is to permit amendments, the Rules Committee announcement states that the committee is considering reporting a rule "that may provide a structured amendment process" and places a deadline for filing amendments with the Rules Committee. (Sometimes Members of Congress submit amendments to the Rules Committee even when the announcement does not indicate that amendments are likely to be permitted by the rule; these amendments are posted on the Rules Committee website but are highly unlikely to be made in order on the floor.)

The amendment process announcement will also identify the precise text that is going to be considered for amendment. In current practice, it is most likely that the Rules Committee will direct that amendments be drafted to a Rules Committee print and provide a link to that print in the announcement. This information is crucial because some amendments are directed to particular page and line numbers which could vary if a text is available in different forms.[5]

The content of the Rules Committee print could be the same as the introduced bill, the same or similar to the text of the bill as it was reported or ordered reported by the committee of jurisdiction, and, in some cases, might make additional changes to an introduced or reported text. It is not uncommon for a Rules Committee print, for example, to combine the text of several reported bills into one base text for floor consideration. In the case of a measure referred to multiple committees, the print might include changes developed in consultation with all committees of jurisdiction that may differ from the committee-reported text. The Rules Committee will generally include "header" language on its print indicating, for example, that the print shows the text of the bill "as introduced," "as reported," or "as reported with modifications."

The Rules Committee prints the text that is expected to be considered on the floor in the form of a committee print for several reasons. First, it facilitates distribution of the text to be amended, or what is sometimes referred to as the *base text*. Sometimes a Rules Committee print can be produced and posted online faster than the Government Publishing Office (GPO) can prepare and distribute the official reported version of the bill. Second, if the Rules Committee wishes to recommend changes to the text reported by the policy committee, then those changes can be shared in this format in advance of the Rules Committee meeting. Third, even if the Rules Committee is not recommending changes to the text reported by a committee, the use of a Rules

[3] House staff can subscribe to receive e-Dear Colleague letters at https://e-dearcolleague.house.gov. The announcement is usually made several days in advance, but not always. The rules of the Rules Committee require that committee members be notified of the agenda of a meeting at least 48 hours in advance and be provided the text of any bill or resolution scheduled on the agenda, as well as any accompanying committee report, 24 hours in advance. Emergency meetings, however, can be called at any time provided the chair has "made an effort to consult the ranking minority member, or, in such member's absence, the next ranking minority party member of the Committee." "Rules of the Committee on Rules for the 117th Congress," *Congressional Record*, daily edition, vol. 168 (March 8, 2021), p. H1106.

[4] In earlier Congresses, the House also sometimes considered legislation under *open rules*, which permit Members to offer any amendment that does not violate House rule and procedures, including statutory provisions that the House has designated to function as House rules, such as the Budget Act.

[5] For example, the committee of jurisdiction might have reported a bill with an amendment in the nature of a substitute, which would be a printed version of the bill available on Congress.gov. The same text reprinted as a Rules Committee print would almost certainly have different page and line numbers.

Committee print provides consistency in the process. Members and staff (including attorneys in the Office of the Legislative Counsel who are assisting Members in writing their amendments) know to go to the announcement and follow the link to the print to find the text to which they should draft their amendments.

Draft the Amendment in Consultation with Support Offices

The Rules Committee announcement contains several key directions for Members and their staff to follow when submitting an amendment:

- First, Members are directed to use the Office of the Legislative Counsel for assistance in drafting their amendments. The Office of the Legislative Counsel provides nonpartisan, impartial, and confidential drafting services.[6] Working with the Office of the Legislative Counsel helps to ensure that amendments are not only drafted to the proper text and follow appropriate conventions, but also that the language is clear and legally effective.
- Second, Members submitting amendments are advised to consult with the Congressional Budget Office (CBO) to obtain preliminary assessments of the budgetary effects of their policy proposals. CBO provides objective, nonpartisan information, including formal and informal cost estimates of proposed legislation.[7] The decision whether or not to allow the offering of an amendment can depend in part on its cost and whether it complies with various House rules and rulemaking statutes that restrict the consideration of amendments based on their budgetary effects.
- Finally, Members are instructed to consult with the Office of the Parliamentarian to determine if their amendments violate any rule of the House, such as the requirement that amendments be germane. The Office of the Parliamentarian provides expert, authoritative advice on the meaning and applicability of House rules and, like the other offices mentioned, operates in a confidential and nonpartisan manner.[8]

Comply with House Rules (or Request Appropriate Waiver)

The complexity of House rules and procedures are why the Rules Committee directs Members and their staff to consult directly with the Parliamentarian and other support offices.[9] If a submitted amendment violates a standing rule or other procedural authority, the Rules Committee

[6] The Office of the Legislative Counsel services are available only to Members and committees of the House and their staff. They can be contacted by telephone (5-6060) and by email (legcoun@mail.house.gov). For more information, see their website at http://legcoun.house.gov/members/ and CRS Report RL33220, *Support Offices in the House of Representatives: Roles and Authorities*.

[7] By law, CBO's primary responsibility is to congressional committees. The Budget Analysis Division of CBO can be reached by telephone (6-2800) and email (costestimates@cbo.gov). For more information on services available from CBO to individual offices, see CBO, *An Introduction to the Congressional Budget Office*, January 2021, available at https://www.cbo.gov/sites/default/files/Intro-to-CBO-2021.pdf.

[8] The House Parliamentarians can be reached by telephone (5-7373), and amendments can be submitted to the Parliamentarians for review by email. For more information on the role of the Parliamentarian, see CRS Report RS20544, *The Office of the Parliamentarian in the House and Senate*.

[9] House procedures are based not only on the standing rules of the House but also on rulemaking provisions of law, precedents, constitutional mandates, and parliamentary principles. Throughout this report, the term *rules and procedures* is used to refer to all relevant procedural authorities. For more information on these procedural authorities and how to consult them, see CRS Report RL30787, *Parliamentary Reference Sources: House of Representatives*.

is less likely to recommend that the amendment be permitted to be offered. When Members know their amendments violate a rule, such as that an amendment is not germane or that its cost exceeds previously agreed-upon levels, they can attempt to redraft it to comply with the rule, or request that the rules of the House be waived to allow their amendment to be offered.

When the proposed rule allows an amendment to be offered on the floor, it almost always protects the amendment from any points of order that could be raised against it. In other words, all rules and procedures are waived to allow the amendment to be offered. But while this is the case, it is also the case that Members generally strive to comply with the rules and procedures of the House in order to increase the likelihood that their amendments will be made in order. The Rules Committee is usually reluctant to make an amendment in order that does not comply with the rules.

The procedural requirements that staff most frequently consult these offices about are discussed briefly below, and citations to resources that address these topics in more depth are provided.

Germaneness (Rule XVI)

House Rule XVI requires that a germane relationship exist between an amendment and the text to be amended. This requirement is stronger than a simple relevancy standard. The burden of proving germaneness rests on the amendment's proponent. To prepare for consultations with the Office of the Parliamentarian, House staff can research precedents and be prepared to point to appropriate connections between their amendment and the legislation to be amended. The House Parliamentarians have summarized several tests of germaneness that amendments must comply with in their volume *House Practice.*[10]

Budget-Related Rules

Several budget-related rules, including those provided under the Budget Act, restrict consideration of legislation (including amendments) with certain budgetary effects, such as increasing spending or reducing revenue.[11] Compliance with budget-related rules depends on the estimated costs of an amendment. Staff consult with CBO, the Joint Committee on Taxation (for revenue estimates), and the Budget Committee regarding proposed amendments that might directly affect federal spending or revenues. Information on specific prohibitions can be found in the budget process chapter of *House Practice*.[12]

Restrictions on Amendments to Appropriations Bills (Rule XXI, Clause 2)

The House Rules Committee usually recommends that dozens of amendments be permitted to be offered to the annual appropriations bills when they are considered on the floor. In preparing to submit amendments to the Rules Committee, in addition to relevant budget rules (as referenced above), congressional staff generally seek to comply with House rules that specifically apply to such appropriations bills. In particular, clause 2 of House Rule XXI includes two key restrictions:

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[10] Specifically, see Charles W. Johnson, John V. Sullivan, and Thomas J. Wickham Jr., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* (Washington: GPO, 2017) pp. 549-578, available at https://www.govinfo.gov/content/pkg/GPO-HPRACTICE-115/pdf/GPO-HPRACTICE-115.pdf (hereinafter *House Practice*). For a brief CRS overview of these tests, see "The Germaneness Rule" section of CRS Report 98-995, *The Amending Process in the House of Representatives*, pp. 9-12.

[11] For additional information on such budget-related rules, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*.

[12] Ch. 7, pp. 187-219.

(1) appropriations bills may not include legislative provisions (e.g., authorizing language); and (2) appropriations may not be provided for purposes not authorized by law (often referred to as unauthorized appropriations). The House, over time, has established extensive precedents regarding the precise application and enforcement of the rule, and therefore, congressional staff are advised to consult with the Office of the Parliamentarian on their draft amendments.[13] *House Practice* describes the rules and precedents limiting the content of amendments to appropriations bills.[14]

Consider Collecting "Cosponsors" for the Amendment

When an amendment is submitted to the Rules Committee, Members can indicate which other Members support the amendment. Under House rules and precedents, only one Member can actually offer an amendment on the floor, and the formal cosponsorship of amendments is not permitted in the way it is for bills and resolutions. When the Rules Committee references "cosponsorship" of an amendment, it is referring to the fact that more than one Member can ask that the Rules Committee allow the amendment to be offered. The multiple Members requesting that the amendment be allowed will be listed on the Rules Committee website. However, if the Rules Committee recommends that the amendment be offered on the floor, the report accompanying the rule will only list the Member submitting the form as the sponsor of the amendment, because only one Member can actually offer it.[15]

Indicating that an amendment has broad support by identifying Members who support the amendment can influence the decision to allow the amendment to be offered. The Rules Committee has announced a protocol that amendments with broad, bipartisan support will be given preference for floor consideration.[16] Specifically, under the protocol, an amendment will be given preference if it is

- accompanied by a letter on the official letterhead of the primary sponsoring Member listing the support of at least 20 Democratic and 20 Republican Members;[17]
- submitted before the deadline included in the Rules Committee announcement;
- in compliance with the rules and procedures of the House, including budget-related rules.

Submit Amendment Through Online Form

The House Rules Committee instructs staff to submit a searchable electronic copy of any amendment using a submission form. (A link to the form, as well as detailed instructions, is provided at rules.house.gov/amendments.) Staff must be on the House network to submit an

[13] The Rules Committee sometimes posts online drafting templates for amendments to appropriations rules. Note, however, that the templates assist with typical forms of amendments and do not ensure that an amendment, so drafted, will comply with the rules.

[14] Ch. 4, pp. 78-133. For a brief discussion of types of amendments often offered to appropriations bills, see CRS Report R47031, *The House Appropriations Process: Opportunities for Member Participation*, pp. 9-10.

[15] Furthermore, if the amendment is offered, the Congress.gov status steps will display the name of the Member who offered the amendment.

[16] The text of the protocol is available at https://rules.house.gov/rules-and-resources/rules-committee-protocol.

[17] A template for the letter can be found on the Rules Committee website at https://rules.house.gov/rules-and-resources/rules-committee-protocol.

amendment, which means they must be using their office computers or devices logged in through the House virtual private network (VPN). The Rules Committee announcement includes a deadline by which amendments must be submitted through the website. While amendments are sometimes submitted after the deadline, this could affect decisions regarding their consideration, and an amendment submitted after the deadline will be labelled as a late submission on the public website.

The online submission form is also used to make revisions to an amendment or to withdraw an amendment in the event that the Member no longer wants the committee to consider it. Only the same user who submitted the amendment originally can use the online form to submit revisions or withdraw the amendment.[18]

On the submission form, Members can also indicate any "cosponsors" of amendments (discussed above) and if they wish to testify before the Rules Committee regarding their amendment (discussed below).

Testifying at a Rules Committee Meeting

Much of the work of drafting an amendment and developing support for it occurs in advance of the Rules Committee meeting concerning the legislation. Personal office staff work not only with congressional support offices to ensure that their amendment is in compliance with House rules and procedures, but also with staff of the committee(s) of jurisdiction concerning the policy effects of their proposed changes. Prior to the public Rules Committee meeting, the staff of the Rules Committee consult with the staff of the policy committee(s) concerning the submitted amendments.

Discussion about submitted amendments continues when the Rules Committee holds a hearing where Members are afforded an opportunity to testify about their amendments. Staff can indicate when they submit an amendment that the Member wishes to testify, or they can contact the Rules Committee staff. The Member will then be scheduled to testify at the Rules Committee hearing.

The first Members to testify at a hearing are typically the chair and ranking member of the committee(s) with jurisdiction over the bill. They testify about the legislation generally and the type of rule they would like the Rules Committee to recommend and respond to questions from the committee. After hearing from committee leadership, the Rules Committee then receives testimony from other Members, often in panels of three to six Members. Each Member is recognized to make a brief statement. Usually, a Member talks about the substance of the amendment, including its purpose, as well as any support the amendment has within the House and from executive branch agencies and outside interest groups.

Members of the Rules Committee then ask questions, starting with the chair and ranking member and continuing in seniority order, alternating by party. Questions might be procedural—for example, a member of the Rules Committee might ask if the Member testifying consulted with the Parliamentarian about whether the amendment is germane. Most questions, however, are usually about the policy change the amendment is proposing.

Far more Members submit amendments for consideration than testify before the Rules Committee. Several reasons might explain this practice, including that Members have often developed support for the amendment prior to the Rules Committee meeting. As a result, the Rules Committee usually decides in advance of the meeting what amendments will be permitted

[18] Amendments can also be revised or withdrawn by submitting a letter on congressional letterhead bearing the Member's signature to Rules.Amendments@mail.house.gov.

by the special rule. Members also have tremendous demands on their time, and the Rules Committee often meets late into the evening.

Members do sometimes choose to testify, and they might choose to do so for any number of reasons. Testifying provides an opportunity for Members to discuss issues of importance to them and their constituents. Even if the expectation is that the amendment will not be made in order to the bill, their testimony can call to their colleagues' attention a particular policy proposal. And while the audience for a live Rules Committee hearing may be small, personal office staff can create videos of the testimony of a Member and share it more widely.

Rules Committee Action to Report a Rule

Immediately or shortly after the hearing, the Rules Committee holds a markup session to consider a special rule. Specifically, a majority member of the Rules Committee is recognized to move that the committee report a resolution setting the terms for consideration of the bill. The text of the draft House resolution is then before the Rules Committee for consideration, and members of the Rules Committee can propose amendments to that text. When no Members seek recognition to offer amendments to the text or to debate it, the Rules Committee will vote to report the rule.

In current practice, if amendments are going to be allowed to be offered on the floor, the committee will recommend what is referred to as a *structured rule*. The rule identifies the amendments that can be offered, the order in which they can be offered, and how long they will be debated; in this way, the rule "structures" the amendment process. The resolution contains many other provisions affecting the consideration of legislation, but the provisions most relevant to the amendment process in a structured rule include

- specification of who may offer the amendment and in what order amendments will be considered;
- time limits on debate for each amendment, specified in an accompanying Rules Committee report (usually 10 minutes);
- prohibition on offering any amendments to an amendment and on demanding a division of an amendment;[19]
- waiver of all points of order that could be made against the amendments that are allowed to be offered.

The impact of these provisions is discussed more fully below in the section "Floor Consideration of Amendments under a Structured Rule."

The special rule that is before the Rules Committee for consideration is drafted and presented by the majority. It is most often members of the minority party on the Rules Committee who propose amendments to that text in public markup. One common amendment to the rule, for example, is to alter the text of the rule to make it an *open* rule instead of a *structured* rule. Under an *open rule*, Members can offer and debate any amendments permitted under the regular rules and procedures of the House. While such amendments to the rule are frequently offered in the Rules Committee markup, the committee routinely rejects them.

[19] Under regular House rules and procedures, when an amendment is pending, several other amendments could be offered in relation to it and would be disposed of prior to a vote on the amendment. Also under regular House rules, a Member can demand that an amendment proposing to insert text or to strike text be divided if it consists of two or more substantive propositions. For more information, see CRS Report 98-995, *The Amending Process in the House of Representatives*.

Another form of an amendment to the rule sometimes offered in the Rules Committee is one that would allow a specific amendment to the bill to be considered by the House. For example, a member of the Rules Committee can, when recognized, say:

> I move to amend the rule for [bill number] to make in order amendment [number assigned by the Rules Committee] offered by Rep. [name and state], which [brief description of amendment].

This motion affords a Member who submitted the proposed amendment to the Rules Committee an opportunity to receive a vote (during the committee markup) in relation to the policy proposal. Such proposals to include additional amendments are also regularly rejected by a majority of the Rules Committee.

Rules Committee Report

Once the Committee on Rules has ordered a special rule reported, the chair is responsible for promptly reporting the measure to the House along with a supplemental written report containing certain required information. Rules Committee reports routinely contain several components, including

- a summary overview of provisions contained in the special rule,
- an explanation of waivers against points of order otherwise available under the rules and procedures of the House,
- a detailed list of recorded committee votes taken during the committee's markup of the special rule,[20]
- summaries of amendments made in order by the special rule, and
- the full text of each such amendment.

In general, the proposed text of a committee report accompanying a special rule must be available to Members for one legislative day before the House can take up the measure for consideration.[21]

Rules Committee reports, in addition to being required under House rules, serve to inform Members about how legislation will be considered under a special rule adopted by the House. In particular, the committee report serves as a roadmap for the order of floor consideration and debate on amendments. Structured special rules regularly include language stating that amendments will be considered only in the order printed in the committee report and debatable for the period of time specified therein. Members desiring to formally offer an amendment, or to claim debate time in opposition to an amendment, can better follow floor proceedings and know when to be present on the floor by consulting the order of amendments printed in the committee's report.

[20] House Rule XIII, clause 3(b), requires all committee reports to include an accounting of votes cast in relation to reporting a measure and on any amendments to the measure or matter. This is to include tallies of those voting for and against each question and listing committee members by how they voted. The Rules Committee is directed to include this information "to the maximum extent practicable" in relation to special rules.

[21] House Rule XIII, clause 6(a). The House can take up a special rule the same legislative day it is reported if "the proposed text of such a report has been made available … prior to the convening of that legislative day." Alternatively, same-day consideration can be approved by motion with support of two-thirds of Members voting. This one-day layover period does not apply during the last three days of a session of Congress. For more information, see CRS Report RS22015, *Availability of Legislative Measures in the House of Representatives (The "72-Hour Rule")*.

House Consideration of the Special Rule

Once a special rule has been reported by the Committee on Rules, it must be taken up and agreed to on the House floor in order to go into effect. The chair of the Rules Committee, or another Rules Committee member serving as majority floor manager, calls up a reported special rule on the floor at a time arranged in advance with majority party leadership. The Rules Committee chair or a designee is recognized for one hour, and by custom that Member 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 purposes of debate only." This conditional recognition prevents Members from offering amendments to the special rule being debated. 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.[22]

Infrequently, the majority floor manager may offer an amendment to the rule or seek unanimous consent to modify the committee report or text of amendments made in order by the rule.[23] The manager for the minority, however, will not have this opportunity, because time yielded from the majority manager is for purposes of debate only. Furthermore, at the end of the first hour of debate on the rule, the Rules Committee majority floor manager will "move the previous question," and the House will immediately vote on that motion. The previous question motion effectively asks whether the House is ready to vote 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 party Members who urge a "no" vote on the previous question are doing so because, if the previous question is defeated, the Speaker then recognizes the leader of the opposition for one hour. During that (second) hour, the opponent could propose changes to the majority's special rule, perhaps to allow more minority party amendments to be offered to the bill or to allow the House to consider a different bill. Members in opposition to the special rule often characterize the previous question vote as a vote related to such amendments or bills.

In practice, however, the previous question is ordered by majority vote, and Members therefore do not have an opportunity to offer an amendment to the rule.[24] Once the previous question 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.

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[22] For more information, see CRS Report RS22991, *Speaking on the House Floor: Gaining Time and Parliamentary Phraseology*.

[23] For an example of an amendment offered to a special rule on the floor, see "Amendment Offered by Mr. McGovern," *Congressional Record*, daily edition (July 10, 2019), p. H5323. For modification of a special rule's accompanying committee report, see "Modification offered by Mr. McGovern," *Congressional Record*, daily edition (June 19, 2019), p. H4780. As a final example, see "Modification to amendment in the nature of a substitute offered by Ms. Pryce of Ohio," *Congressional Record*, daily edition (March 29, 2001), p. H1298, for an instance where unanimous consent was used to modify the text of an amendment that would be made in order by the special rule under consideration.

[24] The last time a motion to order the previous question on a special rule was defeated was on April 19, 1988. The House did not order the previous question on H.Res. 427, 100th Congress, by a vote of 131-272. The rule as reported provided for consideration of a conference report and waived all points of order against the conference report. The amendment to the rule provided an exception to the waivers. This had the effect of allowing a point of order to be raised against a specified portion of the report that it included non-germane matter that originated in the Senate. See *Congressional Record*, vol. 134 (April 19, 1988), pp. 7345-7355.

Floor Consideration of Amendments Under a Special Rule

The Committee of the Whole House on the State of the Union

Until the COVID-19 pandemic led the House to make several changes to its operations, the House always considered bills that would be subject to multiple amendments in the Committee of the Whole House on the State of the Union. 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. It evolved as a parliamentary device to allow more efficient consideration of legislation than is available under alternative sets of procedures the House may use. If a special rule allows more than one amendment to be offered, it usually authorizes the Speaker to declare the House resolved into the Committee of the Whole for consideration of the measure for amendment.

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 any amendments that were agreed to; and (5) the House votes on those amendments and then on the measure itself after disposing of an optional motion to recommit.[25] When the House resolves into the Committee of the Whole, the Member serving as presiding officer appoints a majority party Member to serve as the chair of the Committee of the Whole, who presides over proceedings. For this reason, in Committee of the Whole, Members address their remarks to Mr. or Madam Chair, not Mr. or Madam Speaker. When the Committee of the Whole "rises and reports" to the House, the presiding officer will change again and be addressed as the Speaker.

During most of the pandemic, special rules did not provide for consideration of amendments in the Committee of the Whole, perhaps because the special procedures that allowed for proxy voting during a public health emergency did not apply to the Committee of the Whole.[26] On July 19, 2022, the House agreed to a special rule that provided for consideration of a bill in Committee of the Whole and also applied the proxy voting procedures to that forum.[27] It is possible that the House will choose in the future to continue to consider amendments in the Committee of the Whole, as was the near universal practice prior to the pandemic.

The rules and procedures of the Committee of the Whole differ from those of the House proper in several ways. In modern practice, however, the House only considers measures for amendment pursuant to special rules, which significantly alter these rules and procedures. Therefore, the

[25] Prior to voting on final passage of a bill or joint resolution, the presiding officer looks to a Member of the minority party to offer a non-debatable motion to recommit the measure back to committee. While the majority party routinely defeats the motion to recommit, if it were successfully adopted, the measure would be sent to the committee specified in the motion and no longer pending before the House for final passage.

[26] The House, in the 116th Congress, agreed to H.Res. 965, which authorized voting by proxy during a public health emergency. In the 117th Congress, the House agreed to H.Res. 8, which applied most of the provisions of H.Res. 965, 116th Congress, to the 117th Congress.

[27] Specifically, the House agreed to H.Res. 1232, providing for the consideration of an appropriations bill and other legislation. That resolution contained a provision stating that another resolution, H.Res. 1230, was adopted. H.Res. 1230, by amending H.Res. 8, applied the proxy voting procedures of H.Res. 965, 116th Congress, to the Committee of the Whole.

major differences between the rules and procedures of the Committee and the Whole and those of the House largely do not affect Members' options for parliamentary action. The following description of the amending process was written generally to apply to both forums. When a procedural difference between the two forums is likely to affect floor action in current practice, it is discussed below, often in footnotes.

Start of Consideration of a Bill for Amendment

Before the offering and considering of amendments begins, the House will first debate the underlying measure for a period of time defined in the special rule.[28] Most bills will be debated for one hour, though a special rule may provide for longer debate, particularly on major legislation or when more than one committee has jurisdiction over major portions of the bill. Once this time has expired or has been yielded back, the presiding officer will announce the process by which amendments may be called up, considered, and voted on. For example:

> Presiding Officer: All time for debate has expired. Each further amendment printed in [section listed, e.g., Part A] of House Report [report number, e.g., 117-123] shall be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, may be withdrawn by the proponent at any time before the question is put thereon, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

As demonstrated in this example, consideration of amendments to a measure under a special rule is structured in several important ways: which amendment can be offered and by whom, when it can be offered, and how it will be considered. Only those amendments printed in the referenced section of the Rules Committee's report are eligible to be called up for consideration, and only in the order they appear there. Typically, the committee report will name the amendment's primary sponsor (or designee) as the only Member who may offer it on the floor. For the purposes of discussion throughout this section, the Member who offers the amendment on the floor will be referred to as the "sponsor."[29]

Offering and Debating Amendments

As the House considers amendments, the presiding officer will state which specific amendment is in order and then recognize its sponsor to formally offer it for consideration on the floor:

> Presiding Officer: It is now in order to consider amendment No. [e.g., 1] printed in [e.g., Part A] of House Report [e.g., 117-123].
>
> Member: M. Chair, I have an amendment at the desk.

The amendment is then designated by the clerk and, as a matter of routine, is considered as read by the special rule.[30] Next, the presiding officer announces how much time is allotted for debate and recognizes the amendment's sponsor to speak first.

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[28] If the special rule provides that the measure be considered in the Committee of the Whole, then the House will first resolve into the Committee of the Whole and then begin general debate on the measure.

[29] This report references the "offering" of amendments on the floor interchangeably with the phrase "calling up" amendments. Both terms mean the same thing, though some Members may prefer to use the "offer an amendment" language as the more formal reference to this parliamentary action when preparing to speak on the floor.

[30] Ordinarily, an offered amendment is required to be read in full on the House floor unless the House dispenses with the reading by unanimous consent. Special rules treat amendments "as read" in order to expedite these steps.

> Pursuant to House Resolution [e.g., 123], the gentle[wo]man from [State] and a Member opposed will each control [X] minutes.
>
> The chair recognizes the gentle[wo]man from [state].

Rules Committee reports typically designate 10 minutes of debate on each amendment, equally divided between the sponsor and a Member opposed to it. Upon recognition, the amendment's sponsor begins by stating:

> I yield myself such time as I may consume.

After finished speaking, the sponsor will end with:

> I reserve the balance of my time.

The presiding officer then recognizes the opposing Member to speak. Following these opening remarks from both Members, the presiding officer will alternate recognition between the sponsor and opposition Member until all time is expired or yielded back. The presiding officer is responsible for keeping track of debate time consumed and may be addressed during debate to inquire about time remaining:

> May I inquire as to the time remaining [on each side]?

At any point, the sponsor or opposition Member may also choose to yield a portion of the controlled time to other Members desiring to speak on the amendment:

> I yield 2 minutes to the gentle[wo]man from [State].

Members may yield as much or as little time to other speakers as they desire. Yielded time provides an opportunity for amendment cosponsors, committee and party leadership, or any other Members to speak in favor or against the policy positions being proposed. Special rules routinely provide that amendments are not subject to further amendment and preclude any other parliamentary actions. As such, the sponsor does not need to specify that time is being yielded for the purposes of debate only.

Members managing debate time on an amendment signal they are ready to conclude their remarks by stating they are "prepared to close" and may also choose to reserve the balance of their time for that purpose. The right to speak last on an amendment, or to close debate, is afforded to the Member managing time in opposition to the amendment.[31] In cases where there is no true opposition to the amendment (because both managers support the amendment), the sponsoring Member has the right to close debate.

Once all time is yielded back or expired, the House votes on the question of adopting the amendment.[32]

Voting on Amendments: Common Practice

When it comes time to vote on an amendment, the presiding officer formally puts the question on adoption before the House:

> The question is on the amendment offered by the gentle[wo]man from [state].

[31] House Rule XVII, clause 3(c). See *House Practice*, pp. 397-398.

[32] If the measure is being considered in the House proper, instead of the Committee of the Whole, the rule might provide that the previous question is considered as ordered on the amendment.

The House then proceeds to vote by voice with the presiding officer asking all those in favor to say "aye," and all those opposed to say "no," and announcing the outcome.

Sometimes, Members would prefer that a vote be taken by electronic device, which will create an official record of each individual Member's position on the question.[33] Record votes can be a beneficial tool for Members to readily demonstrate their policy positions to their constituents. One option for securing such a vote is for a Member to rise—after the presiding officer announces an opinion as to the results of a voice vote but before a declaration of the final results—and state:

> I request a recorded vote.

The presiding officer can postpone the request for a recorded vote on any amendment and usually does so. This is because if several votes on amendments are expected, they can all be postponed and scheduled to occur in a series, one right after the other, at a later time. In other words, the presiding officer has the authority to "cluster" or "roll" votes on amendments.[34]

Any amendments agreed to while the House is resolved into Committee of the Whole must then also be adopted by the House proper. Routinely, the question on approving those amendments in the House is put *en gros* (meaning with a single vote) under the terms of the special rule. The full House then approves the amendments, typically by voice vote.[35]

Withdrawing an Amendment

If permitted by the special rule, during consideration of an amendment prior to the House voting on its adoption, the offering Member may withdraw it from consideration.[36] Members sometimes offer an amendment they plan to withdraw for a number of possible reasons. Calling up an amendment guarantees at least some debate time in order to highlight policy issues of importance to the Member. Alternatively, consideration of an amendment can be an opportunity to secure support from committees or leadership to work with the Member to get the policy proposal into

[33] Obtaining a record vote in the Committee of the Whole and the House requires the support of a sufficient second. For more information on different methods of securing votes by electronic device, see CRS Report 98-988, *Voting and Quorum Procedures in the House of Representatives*. Under procedures first adopted during the 116th Congress under H.Res. 965, and continued until July 20, 2022, in the 117th Congress under H.Res. 8, any individual Member (or Delegate or Resident Commissioner) could request a record vote on a question put before the House.

[34] In the Committee of the Whole, the chair can resume proceedings on a postponed vote at any time and reduce the minimum time for an electronic vote from 15 minutes to not less than two minutes. In the House proper, the Speaker may postpone proceedings to a time within two additional legislative days and reduce the minimum time to five minutes. In both forums, the time can be reduced for votes occurring immediately after a 15-minute vote or at any time Members would, in the discretion of the presiding officer, be "afforded an adequate opportunity to vote" (House Rule XX, clause 9(a) and House Rule XVIII, clause 6(g)).

[35] In one particular situation, a record vote by the House proper on an amendment is required by House rules. 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*.

[36] Since July 2016, special rules have usually provided Members with authority to withdraw their amendments. Absent this authority, an amendment cannot be withdrawn in the Committee of the Whole except by unanimous consent. In the House proper, withdrawing an amendment while the previous question is pending also requires unanimous consent. See *U.S. Congress, House, Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States 117th Congress*, prepared by Jason A. Smith, 116th Cong., 2nd sess., H.Doc. 116-177 (Washington: GPO, 2021), §905, p. 723.

another measure. With these goals in mind, Members will generally use the debate time allotted to them and then conclude their remarks by stating to the presiding officer:

> I yield back the balance of my time and I withdraw my amendment.

An amendment that is withdrawn receives no further consideration and the House proceeds to the next item of pending business.

En Bloc Amendments

Special rules can include language that allows for amendments to be offered *en bloc*, whereby multiple amendments are called up, considered, and disposed of all together as a single package. In practice, the special rule authorizes the chair of the primary committee of jurisdiction over the underlying measure (or designee) to offer amendments *en bloc*. The decision on how *en blocs* get packaged together may be negotiated with party leadership and individual Members whose amendments would be affected.

En bloc consideration of amendments can serve a number of purposes in the House. Primarily, it can streamline consideration of a measure by reducing the number of total votes needed to process amendments. Party and committee leadership may also find strategic advantages in packaging certain amendments together. An amendment may see its chances of adoption improved by being packaged with amendments expected to garner strong support. Alternatively, the majority may find it politically advantageous to take a single vote on multiple controversial amendments rather than consider each of them individually.

Offering Amendments *En Bloc*

Amendments offered *en bloc* are identified by their numbered designation in the Rules Committee report that accompanies the special rule. Upon recognition, the Member designated by the special rule will rise and state:

> Pursuant to House Resolution [e.g., 123], I offer amendments *en bloc*.

On the floor, the clerk will then designate each amendment in the *en bloc* package by the number it is listed in the committee report accompanying the special rule. For example:

> Amendments *en bloc* consisting of amendment Nos. 14, 36, 119, and 186, printed in part [e.g., B] of House Report [e.g., 117-123], offered by [Member name] of [State].

The full text of each amendment and its sponsoring Member's name will appear in the *Congressional Record*.[37]

Debating *En Bloc* Amendments

Regardless of how many amendments are packaged *en bloc*, they share one pool of debate time. The special rule usually divides this time between the chair and ranking minority member on the committee of jurisdiction over the underlying measure (or their designees). In turn, these committee leaders will yield time to the individual Members whose amendments make up the *en*

[37] When tracking amendment actions, Member offices should be aware that amendments adopted *en bloc* do not appear in the status steps of the underlying bill on Congress.gov. Instead, the *en bloc* package is recorded as a single amendment that lists the floor manager as sponsor and does not identify the individual Members whose amendments make up the contents of the package. Sponsoring Members of amendments considered *en bloc* are still credited in the *Congressional Record* and in the Rules Committee's written report accompanying the special rule.

bloc package. Members and their staff should work with floor staff to ensure that debate time, if desired, is secured.[38] It is also common for the majority manager to request "general leave," which grants standing permission for Members to insert their remarks in the *Congressional Record* on the legislation.

Voting on *En Bloc* Amendments

Only one vote is held on the question of adoption of amendments offered *en bloc*. Furthermore, special rules routinely prohibit a motion to divide the question, which would otherwise let the House vote on each amendment individually. The vote is first taken by voice, although any Member may request a recorded vote.[39] If the question is agreed to, all amendments in the *en bloc* package are adopted. Conversely, if the question is not agreed to, all amendments in the package are rejected.

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[38] Alternatively, sponsors of amendments that will be offered in an *en bloc* package could consider seeking floor time during general debate on the special rule itself. Time yielded during general debate on the bill could also be used by an amendment's sponsor to speak on the merits of the proposal.

[39] See the "Voting on Amendments: Common Practice" section for additional discussion on floor votes.