

An hourglass-shaped graphic with a globe in the top bulb and another globe in the bottom bulb. The hourglass is light blue and has a dark blue cap at the top. The globe in the top bulb is dark blue, and the globe in the bottom bulb is light blue. The hourglass is centered on the page.

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Floor Consideration of Conference Reports in the Senate

James V. Saturno, Government and Finance Division

November 5, 2004

Abstract. When a committee of conference approves its report, the next step in the legislative process is for the report, along with a joint explanatory statement of the managers, to be presented to the House and Senate for consideration.

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Floor Consideration of Conference Reports in the Senate

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Filing Conference Reports

When a committee of conference approves its report, the next step in the legislative process is for the report, along with a joint explanatory statement of the managers, to be presented to the House and Senate for consideration. A conference report must be filed and considered in one chamber at a time, when a chamber is in possession of the official conference papers. In the Senate, Rule XXVIII allows conference reports to be presented or filed at almost any time the chamber is in legislative session, provided that the Senate is in possession of the conference papers. Exceptions to this procedure include a time when the *Journal* is being read, a question of order or a motion to adjourn is pending, during a quorum call, or while the Senate is voting. For more information on legislative process, see <http://www.crs.gov/products/guides/guidehome.shtml>.

The presentation of a conference report includes its reading, and a conference report must be read on the demand of any Senator. Typically, the Senate routinely dispenses with the reading by unanimous consent. Under a standing order adopted by the Senate at the end of the 106th Congress, the reading of a conference report is not required if the report is “available in the Senate.”

Under Senate Rule XXVIII, conference reports are required to be printed as Senate reports. However, when a conference report has already been printed by the House, the Senate also routinely dispenses with this requirement.

Debating Conference Reports

The consideration of a conference report is highly privileged, and, after it is read, a conference report may be called up for consideration at almost any time another matter is not pending. A motion to proceed to the consideration of a conference report is not debatable. The conference report itself, however, is debatable, and consideration follows normal Senate procedures.

Senate Rule XXVIII, clause 5 provides that, if time for debate on the consideration of a conference report is limited (by a unanimous consent agreement) the time allotted for debate is to be equally divided and controlled by the majority and minority parties.

The chamber that *agrees to a request* for a conference is normally the one to consider a conference report *first*. This is significant because the first chamber to act can agree or disagree to a conference report, or it can agree to a preferential motion to recommit the report to conference. However, after one chamber has acted on a report, its conferees are discharged, and the other chamber may only accept or reject the conference report.

If the second house rejects a conference report, the measure is left in the procedural situation it was in before the conference was requested. In such a circumstance, one house could propose a new position to the other house as an amendment between the houses, or it could request a new conference. In the event that a conference report is recommitted or rejected and the measure submitted to a new conference committee, all of the matters originally sent to conference are again before the conferees *de novo* for consideration.

Points of Order

In the Senate, a point of order may be made against a conference report at any time during its consideration prior to its adoption, but it cannot be made until after the conference report has been read, or the reading dispensed with. Points of order may be made against conference reports on a variety of grounds. For example, the limitations established in the Congressional Budget Act generally apply to a conference report as well as to a bill during initial consideration. Points of order that are either waived or not raised during initial consideration are not implicitly waived for the conference report.

Senate Rule XXVIII provides that conferees may not “insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses.” Any conference report to the contrary would be subject to a point of order. When one house strikes everything after the enacting clause and inserts a substitute for the entire bill the conferees have wide latitude to effect a compromise. In such a case, Senate precedents permit the conferees to report any germane modification as long as it does not include new matter entirely irrelevant to the subject of the bill sent to conference.

A point of order against a conference report is not debatable, although an appeal of a ruling of the presiding officer would be. A point of order may only be made against the conference report, and not against the language in the joint explanatory statement.

If the Senate is the first chamber to act on a conference report, the effect of a point of order being sustained is for the conference report to be recommitted to the conference committee. If the Senate is the second chamber to act on a conference report, the effect of a successful point of order is that the conference report falls, and any further consideration of the measure must follow some alternate route, in the same manner as if the report had been defeated.

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