



“Sense of” Resolutions and Provisions

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One or both houses of Congress may formally express opinions about subjects of current national interest through freestanding simple or concurrent resolutions (called generically “sense of the House,” “sense of the Senate,” or “sense of the Congress” resolutions). These opinions may also be added to pending legislative measures by amendments expressing the views of one or both chambers. This report identifies the various forms these expressions may take and the procedures governing such actions.

“Sense of” Resolutions

Sense of the House or Senate resolutions take the form of simple resolutions because they only require the approval of one chamber. A sense of Congress resolution, on the other hand, must be a concurrent resolution as both the House and Senate must approve such measures. Joint resolutions are not typically used for expressions of congressional opinion because joint resolutions generally require presidential approval. A “sense of” resolution is not legally binding because it is not presented to the President for his signature. Even if a “sense of” provision is incorporated into a bill that becomes law, such provisions merely express the opinion of Congress or the relevant chamber. They have no formal effect on public policy and are not considered law.

“Sense of” resolutions are considered under the normal legislative processes of each chamber applicable to any other legislative vehicle. Because “sense of” resolutions do not involve the expenditure of public funds, such resolutions, if reported from House committees, are placed on the House calendar. Typically, the House has considered them through suspension motions, by unanimous consent request, and rarely under the terms of a special rule reported from the Committee on Rules and adopted by the House. As adopted in the 112th Congress (2011-2012), the rules of the House Republican Conference include language that limits the use of the Suspension of the Rules procedure for certain types of honorific or commemorative legislation. This rule could preclude the consideration of some “sense of” legislation in the House. Specifically, paragraph 7 of Conference Rule 28 states that the Republican leader, “shall not schedule, or request to have scheduled, any bill or resolution for consideration under suspension of the Rules which ... expresses appreciation, commends, congratulates, celebrates, recognizes the accomplishments of, or celebrates the anniversary of, an entity, event, group, individual, institution, team or government program; or acknowledges or recognizes a period of time for such purposes.”¹ The rule may be waived by a majority of the elected House Republican leadership.² On February 23, 2011, House Majority Leader Eric Cantor announced a series of 10 “Legislative Protocols,” one of which is intended to clarify the application of Conference Rule 28.³ Protocol 7 states that a “resolution of bereavement, or condemnation, *or which calls on others (such as a foreign government) to take a particular action* [emphasis added], but which does not otherwise violate the provisions of Rule 28 is eligible to be scheduled under suspension of the Rules.”

The Senate normally takes up “sense of” resolutions by unanimous consent or, far more infrequently, they are automatically laid before the Senate under the “resolutions ... over, under the Rule” process (Senate Rule XIV).

¹ U.S. Congress, House, *Rules of the House Republican Conference, As Amended*, February 15, 2011, p. 25, available at <http://www.gop.gov/resources/library/documents/rules/112th-conference-rules-as-amended-2-15-2011.pdf>.

² *Ibid.*, p. 26.

³ House Majority Leader Eric Cantor, *Legislative Protocols for the 112th Congress*, February 23, 2011, available at <http://www.majorityleader.gov/protocols>.

“Sense of” Provisions

Besides expressing such views through simple or concurrent resolutions, Congress may attach such provisions to a bill by way of floor or committee amendment. In the House, a “sense of” amendment must be germane to the overall measure and to the particular portion of the bill to which it is added. Violations of the germaneness rule can be overcome through motions to suspend the rules or by provisions in a special rule waiving certain points of order.

Senate rules give more latitude to Senators to offer “sense of” amendments in committees or on the floor. In general, the rules of the Senate normally do not require amendments to be germane to the pending bill. Germaneness of amendments is required once the Senate invokes cloture. “Sense of Congress” or “sense of the Senate” amendments offered post-cloture are germane if the subject of the “sense of” amendment falls within the jurisdiction of the committee reporting the underlying bill. “Sense of Congress” or “Sense of the Senate” amendments offered to budget resolutions or reconciliation bills are out of order, even if germane, pursuant to language contained in the conference report on the budget resolution for FY2001.⁴ Formerly, the Senate permitted “sense” amendments on appropriations bills. However, in May 2000, the Senate voted to overturn a ruling of the chair so that the Senate’s presiding officer now has the authority to rule on the germaneness of “sense of the Senate” or “sense of Congress” amendments offered to appropriations bills, and to declare any non-germane “sense” amendments out of order.⁵

Content of “Sense of” Resolutions and Provisions

“Sense of” resolutions and amendments expressing the sense of one or both houses of Congress have been offered on many subjects. A survey of “sense of” resolutions and amendments adopted during the 111th Congress (2009-2010) shows that many of them focused on foreign policy matters, particularly resolutions that express the sense of the Senate. However, “sense of” proposals were forwarded on a wide range of other subjects, including stressing a particular domestic policy priority, recognizing a historic milestone, figure, or location, and calling for certain federal agencies or officials to take, or refrain from taking, a specified action.

Although “sense of” proposals have no force in law, foreign governments pay close attention to them as evidence of shifts in U.S. foreign policy priorities. On domestic issues, agencies also monitor “sense of” provisions because they may be an early signal that Congress will alter formal statutory provisions, if the informal nature of “sense of” provisions does not influence agency policy.

⁴ U.S. Congress, Conference Committees, 2000, *Concurrent Resolution on the Budget for Fiscal Year 2001*, conference report to accompany H.Con.Res. 290, 106th Cong., 2nd sess., H.Rept. 106-577 (Washington, GPO: 2000), sec. 204(g), pp. 15-16.

⁵ Sen. Trent Lott, “Military Construction Appropriations,” remarks in the Senate, *Congressional Record*, daily edition (electronic version), vol. 146 (May 17, 2000), pp. S4062-S4063.

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This report was written by Paul S. Rundquist, formerly a specialist in American National Government at CRS. Dr. Rundquist has retired, but the listed author is available to answer questions concerning its contents.