

Supermajority Votes in the House

name redacted

Analyst on Congress and the Legislative Process

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The principle of majority rule dominates the work of the House of Representatives. This means that most questions are decided by vote of a simple majority, assuming the presence of a quorum. For instance, if all 435 lawmakers vote, the winning margin is at least 218—one more than half the membership of the House. In cases of a tie vote, House Rule XX, clause 1(c), states that “a question shall be lost.”

Some supermajority votes, however, are explicitly specified in the Constitution. They are also created by authority granted in Article I, Section 5, which says, “Each chamber may determine the Rules of Its Proceedings.” Under this affirmative constitutional power, the House may adopt a number of additional supermajority (sometimes called “extraordinary majority”) requirements.

Constitutional Supermajority Requirements

In the judgment of several of our Founding Fathers, among the infirmities of the Articles of Confederation was a supermajority requirement for deciding such questions as coining money, appropriating funds, and determining the size of the army and navy. As Alexander Hamilton wrote in *Federalist* No. 22, “To give a minority a negative upon the majority (which is always the case where more than a majority is requisite to a decision), is, in its tendency, to subject the sense of the greater number to that of the lesser.” Overall, the Framers generally favored decisionmaking by simple majority vote.

On the other hand, the Framers recognized the virtue of supermajority votes in certain circumstances. In *Federalist* No. 58, James Madison (like Hamilton a proponent of majority voting for most things) noted that supermajority votes could serve as a “shield to some particular interests, and another obstacle generally to hasty and partial measures.” Hamilton, too, in *Federalist* No. 73 highlighted the benefits of requiring an extraordinary majority of each chamber to overturn a President’s veto. “It establishes a salutary check upon the legislative body,” he said, “calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of that body.”

The original Constitution requires a two-thirds vote of either the House, the Senate, or both in five situations: (1) overriding presidential vetoes,¹ (2) voting to convict federal officers in impeachment trials (Senate),² (3) providing advice and consent to treaties (Senate),³ (4) expelling Members from the House or Senate,⁴ and (5) proposing constitutional amendments.⁵

In addition, the 14th Amendment, ratified in 1868, disallowed anyone who engaged in “insurrection or rebellion” from holding any civil or military office unless each house removed this disability by a two-thirds vote. The 25th Amendment, ratified in 1967, addresses the issues of presidential succession and inability. The House and Senate, by a two-thirds vote of each chamber, may determine that “the President is unable to discharge the powers and duties of his office.”

¹ Art. I, §7, cl. 2.

² Art. I, §3, cl. 6.

³ Art. II, §2, cl. 2.

⁴ Art. I, §5, cl. 2.

⁵ Art. V.

Supermajority Requirements Under House Rules

The House has a number of rules that require either a two-thirds or three-fifths vote of the Members voting, a quorum being present, to pass legislation:

- Rule XV, clause 1, requires a two-thirds vote to suspend the rules of the House.
- Rule XV, clause 5, requires a two-thirds vote to dispense with the call of the Private Calendar on the first or third Tuesday of a month.
- Rule XIII, clause 6(a), requires a two-thirds vote to consider a special rule on the same day that the Rules Committee reports it. This requirement does not apply during the last three days of a session.
- Rule XXI, clause 5(b), requires a three-fifths vote to approve a measure, amendment, or conference report carrying a federal income tax rate increase.

A fundamental distinction exists between supermajority requirements in the Constitution and in the rules of the House. Any rule of the House can be amended by a simple majority, including House rules that mandate supermajority votes. In addition, the rules of the House may be waived through means such as adopting a special rule from the Rules Committee. By contrast, to amend the Constitution (see Article V) requires supermajority votes in both the House and the Senate plus ratification by three-fifths of the states.

Author Contact Information

(name redacted)
Analyst on Congress and the Legislative Process
-redacted-@crs.loc.gov, 7-....

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This report was originally prepared by CRS Senior Specialist in American National Government (name redacted). Please direct any inquiries to the current author.

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