

How Unanimous Consent Agreements Regulate Senate Floor Action

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Summary

The Senate often regulates consideration of a measure or other matter by means of a unanimous consent agreement (also called a “UC agreement” or “consent agreement”). A consent agreement typically regulates one or more of the following: (1) initiating consideration, (2) amendments, (3) time for debate, (4) motions, (5) concluding consideration, and (6) subsequent proceedings. Formerly, the Senate often entered into such an agreement before taking up a matter, and it typically covered all phases of consideration and followed a standard model. Today’s agreements more often address only selected aspects, and many are reached only after consideration begins. As a result, consideration of some matters is regulated by several successive partial consent agreements or modifications of an initial one. For more information on legislative process, see <https://www.crs.gov/iap/legislative-and-budget-process>. On consent agreements generally, see CRS Report 96-548, *The Legislative Process on the Senate Floor: An Introduction*, by Valerie Heitshusen.

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Initiating Consideration

Most matters reach the Senate floor through unanimous consent requests that the chamber proceed to their immediate consideration. When such requests also include provisions regulating further consideration, they often are referred to as *unanimous consent* (or *UC*) *agreements*. A consent agreement may also be made in advance of consideration. In that case it can provide that the matter come to the floor (1) at a date (and time) certain, (2) at a time determined by the majority leader (often after consultation with the minority leader), or (3) upon disposition of some other matter. A consent agreement made after consideration begins may provide that it resume under one of the conditions listed. One that provides for consideration to begin may also provide for discharge of a committee holding the measure or for the waiver of points of order to which the measure might be subject and may provide that a bill be taken up for debate only and then laid aside.

Amendments

UC agreements may prohibit all amendments or those on a specified subject. More often, they permit amendments only (1) as identified in the agreement itself; (2) if relevant to the measure; or, sometimes, (3) in a specified order. For more detail, see CRS Report 98-310, *Senate Unanimous Consent Agreements: Potential Effects on the Amendment Process*, by Valerie Heitshusen.

Debate Time

Consent agreements that limit the time available for debate are also called “time agreements.” A time agreement may establish an overall limit on debate of a measure or matter, or may regulate only a certain day or portion of consideration. Usually, it provides that the specified time be equally divided and controlled by the majority and minority bill managers. Time agreements may also provide separate blocks of controlled time for each amendment or for specified amendments and may limit debate on any “debatable motion, appeal, or point of order” that may arise during consideration. When a question is considered under a time agreement, no vote can occur on the question, and no amendment to it or motion to table it can be offered, until the allotted time is used or the managers yield it back. Also, a Senator can be recognized to speak on the question only when yielded time by a Senator controlling time. A Senator controlling “bill time” may, however, yield some of it to supplement that available for debate of an amendment, motion, or other question.

Motions

Consent agreements may prohibit or restrict the use of quorum calls or of various motions, such as to table or reconsider amendments, to recommit the bill, or for cloture. Increasingly, instead of serving as an alternative to cloture, UC agreements adjust the operation of the cloture rule. Some alter the time for filing or voting on cloture motions, or for filing amendments to be in order under cloture. Others regulate debate before the cloture vote or even under cloture. Others may permit the Senate to take up one bill even if cloture is invoked on another or provide that cloture on one bill does not displace another from consideration. In recent years, agreements often effectively replace the cloture process by providing that a measure or amendment must receive 60 votes to pass.

Concluding Consideration

A UC agreement may require a vote on final passage at a specified point (such as when all available time is exhausted or upon disposition of all listed amendments). Consent agreements may also provide that votes on amendments be postponed and “stacked” to occur just before the final vote. Other UC agreements may stipulate that at a specified time or stage, the matter being considered will be laid aside or returned to the calendar—pending specified action on another matter, or until a date certain, or until the majority leader calls it back.

Subsequent Proceedings

Some UC agreements have regulated the “hookup” of a Senate measure with a House-passed companion in order to proceed to resolve differences. For example, they could provide that, if the Senate passed the bill, it could then take up the House-passed companion, substitute the Senate text, and pass the House bill in that form. Other UC agreements could provide for a process by which the Senate may take up and consider a conference report or House amendments to a bill previously considered in the Senate. A UC agreement may also provide that, after specified proceedings on one matter are completed, some unrelated matter shall automatically be taken up or other action shall occur thereon.

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A previous version of this report was written by Richard S. Beth, former Specialist on Congress and the Legislative Process. The current author has updated the report and is available to answer inquiries from Congress on the topic.

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