

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 text is centered within the hourglass.

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*Floor Consideration of Conference Reports in the House*

James V. Saturno, Government and Finance Division

November 5, 2004

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# Floor Consideration of Conference Reports in the House

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## **Contents**

Filing Conference Reports .....	1
Debating Conference Reports .....	1
Points of Order .....	2

## **Contacts**

Author Contact Information .....	2
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<http://wikileaks.org/wiki/CRS-98-736>

## 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. The high privilege accorded to conference reports in the House under Rule XXII, clause 7(a) allows them to be presented or filed at almost any time the House is in session, provided that it is in possession of the conference papers. Exceptions to this procedure include a time when the *Journal* is being read, during a quorum call, or when the House is conducting a record or division vote. This privilege applies in the House, so that conference reports may not be filed while the chamber is resolved into Committee of the Whole. See <http://www.crs.gov/products/guides/guidehome.shtml> for more information on legislative process.

House Rule XXII, clause 8(a)(1) provides that it is not in order to consider a conference report until the third calendar day (excluding Saturdays, Sundays, or holidays, unless the House is in session) after the report has been filed. A conference report may be considered only if it has been printed in the *Congressional Record* of the day on which it was filed. These requirements are not in force during the last six days of a session, and may be waived by unanimous consent, or, more commonly, by adopting a special rule.

Copies of the conference report and joint explanatory statement must be available to Members at least two hours before the beginning of floor consideration. This requirement may also be waived by unanimous consent or special rule, allowing for the consideration of a conference report immediately after it is filed. None of these requirements would apply to a conference report considered under suspension of the rules.

## Debating Conference Reports

A conference report is highly privileged and may be called up for consideration at almost any time another matter is not pending. A conference report that meets the layover and availability requirements does not need to be read when it is called up. If it does not meet these requirements, the report must be read unless the reading is dispensed with by unanimous consent. Typically, majority managers of a conference call up a conference report, even when they do not sign or support it, although the Speaker may recognize another Member for this purpose.

Once called up, conference reports are normally considered in the House under the one-hour rule. A conference report may also be considered under a special rule from the Rules Committee or suspension of the rules. House Rule XXII, clause 8(d)(1) requires that the time allotted for debate on a conference report be equally divided and controlled by the majority and minority parties. However, if managers from both parties support the report, the rule also provides that a Member who opposes it may claim and control one-third of the hour. Recognition of a Member in opposition does not depend on party affiliation, but priority is given to a member of the conference committee. Debate may be extended beyond one hour by unanimous consent, by special rule, or by defeating the previous question on the conference report. The House may choose to accept or reject a conference report, but amendments are not in order.

The chamber that *agrees to a request* for a conference is normally the one that considers the report *first*. This is significant because the first chamber to act can agree or disagree to a

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conference report, or it can agree to a preferential motion to recommit the report to conference. (A motion to recommit to conference may be made after the previous question is ordered on the conference report, and may include non-binding instructions to the conferees.) However, after one chamber has acted on a conference report, its conferees are discharged, and the other chamber may only accept or reject the conference report.

If the second house rejects the conference report, the measure is left in the procedural situation it was in before the conference was requested. Under such a circumstance, one house could propose a new position to the other house as an amendment between the houses, or it could ask for a new conference. In the event that a 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 House, any point of order against a conference report must be made or reserved before debate on it has begun (or before a joint explanatory statement is read). If a report is required to be read because it has not met the layover and availability requirements, a point of order cannot be made or reserved until after the reading. A point of order may only be made against the conference report, and not against the language in the joint explanatory statement. If a point of order is sustained against a conference report, it falls and any further consideration of the measure must follow some alternate route in the same manner as if the report had been defeated. Rule XXII, clause 10 establishes a procedure for points of order against a conference report due to the inclusion of Senate matter not germane to the House-passed bill.

A special rule may be used to protect a conference report from one or more points of order, and all points of order are implicitly waived when a conference report is considered under suspension of the rules.

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