

## **Amendments: Here be dragons**

Amendments are where most things go wrong in a senate. They are also problematically mysterious —some things that seem fine are out of order and vice versa. Mysteries and seeming arbitrariness are enemies of fairness and inclusive participation in senates.

I swore that I would never write a guide to amendments. That's in part because it is hard to find a way to ease into the topic. But it's also because, honestly, dealing well with amendments is in large part a dark art, only honed through making the wrong call many many times. But here we are.

The best I can do is try to give a sense of how I think about amendments as they are proposed by pretending that I'm addressing an audience of aspiring parliamentarians.<sup>1</sup>

Buckle up.

## **Sources of trouble**

Amendments seem easy. Someone suggests changing something. It gets seconded and discussed. It might get some changes before the body votes on whether to accept it. What's so hard about that?

Well, that part is easy. The tricky part is understanding what amendments are in order. The really hard part is understanding what effects a proposed amendment will have on what changes can be made down the line. That is the source of a great deal of frustration and disappointment when members don't realize that a proposed change

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<sup>1</sup> Sigh. A boy can dream....

will preclude something they wanted to do later.

## **Disclaimer**

The following tries to shed some light and offers some advice for minimizing problems. This is based on my experience and tries to explain my own approach. It is by no means comprehensive or authoritative. Indeed, mindful of the most basic principle—that the rules exist to allow the body to do its work—I will in some places suggest bending the official process. I will try to make those places clear, but proceed at your own risk.

## **Improper amendments**

Instead of discussing what you can do via amendment, let's dip our toes in this quicksand with the narrower issue of what you cannot do—when an amendment is improper. Don't be lured into a false sense of security with the boring cases of self-defeating and procedurally problematic amendments, the specter of germaneness lurks. Keep a tight grip on your safety vine....

## **Self-defeating amendments**

The easiest case is self-defeating amendments (though do not underestimate the ability of clever senates to sneak in these in). If an amendment would make the the adoption of the motion equivalent to its rejection, the senate would enter a logical doom loop and not be able to act. Since the most basic rule is that the senate must always be able to act, these are not allowed.

Consider the motion:

The senate express its appreciation of Senator Blue's service.

It would not be in order to add the words 'does not' like this:

The senate does not express its appreciation of Senator Blue's service

That would be equivalent to rejecting the motion.<sup>2</sup> It would be in order to replace ‘appreciation’ with ‘condemnation’ or ‘indifference to’ as those propose changes of the attitude expressed.\*

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### **Procedurally problematic**

Seconded motions must be decided by the body. Therefore, an amendments which would have the effect of converting one parliamentary motion into another are not in order. Some of this is obvious: the question couldn’t be called via amendment. But this can be a bit more subtle. For example, if the motion is:

That the body recess for 30 minutes

it is not in order to amend it to read

That the body ~~recess for 30 minutes~~ adjourn sine die<sup>4</sup>

Taking a break and permanently dissolving the organization are different. The prohibition on switching amendment types ensures that the body is able to decide whether to take a break before it decides whether it wants to continue to exist.

Easy-peasy, right? Well, where this really matters is <looks around furtively and lowers voice to a terrified whisper> that there are multiple kinds of amendment and it is not in order to change one into another. This, right here, is the the source for at least a third of my nightmares (the unscheduled absence of my local taco tent comprises the rest). Since this is my guide and, as you’ll see, I generally recommend hiding amendment types

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<sup>2</sup> This example is a bit lacking since affirmatively saying that the senate does not express an opinion can have a somewhat passive aggressive connotation which merely rejecting the motion does not. Ignore that connotation and you’ll get the idea.

<sup>3</sup> That chill you just felt, that sense of impending doom, was our first brush with germaneness.

<sup>4</sup> ‘Without day’. This motion permanently dissolves an assembly.

from members, I'm going to suggest how to deal with these problem cases under the guise germaneness and previously-decided questions below.

### **Non-germane amendments**

The most important rule specific to amendments is that an amendment is in order only if it is germane to the motion it is amending. Very roughly, an amendment must be on the same topic / subject.

Germaneness is one of the few places the clarity and sharp definitions of Robz give way to handwaving examples (not a criticism). Ultimately, chairs often have to rely on good sense or a parliamentarian skilled in these dark arts. Indeed, what you're about to get is my spin on it; caveat lector.

The easy cases are obvious. If we are debating a resolution which would make tacos the official food of the senate, it would not be germane to introduce an amendment awarding the parliamentarian \$1,000,000. Parliamentarian pay, no matter how well-deserved, has nothing to do with official foods.

But here's the hard part. The question of germaneness functions at the the level of something like the resolution or motion's topic. Paraphrasing an example from Robz, if we are voting on the motion that

The Senate express its appreciation for Senator Blue's service.

It is germane to move to replace 'appreciation for' with 'condemnation of':

The Senate express its ~~appreciation for~~ condemnation of Senator Blue's service.

Why? Because the topic is the Senate's attitude toward the person's service.

Appreciation and condemnation are both attitudes the body could take.

But what about an amendment to strike 'Senator Blue' and replace their name with 'Senator Green'? On the one hand, in the original motion, the senate is considering whether to express an attitude about someone's service. This just switches who we are taking the attitude toward. So, that seems like it would be germane.

On the other hand, changing whom we are talking about seems like a big switch (though admittedly changing 'appreciation' to 'condemnation' is a big switch) but is it a big enough change of subject?

As in almost every difficult situation, the rule that every question gets considered exactly once is your lodestar. Ask yourself:

If the main motion is voted upon, could this amendment be made in an independent motion?

If the answer is yes, the amendment is (probably) not germane. If the answer is no, the amendment is (probably) germane. We could honor Senator Green in a separate motion after we've voted on the motion honoring Senator Blue. Therefore, attempting to

replace Senator Blue with Senator Green is not germane.<sup>5</sup>

If you're still not sure, it can help to think about the context of the motion. If it appeared in a celebratory resolution dedicated to retiring Senator Blue, then it wouldn't be germane. If it was just a motion tossed out free of context, that's a bit dicier. My approach would be that the purpose of the motion is to say something about the particular person. What the body says about them can be amended, but the subject of the motion cannot. Thus I would advise the chair to reject the attempted amendment and suggest that the maker wait until the motion has been handled and then make their motion about Senator Green.

Finally, if it is still unclear whether an amendment is germane or if the reasoning isn't likely to be clear or convincing to most of the members, the chair should ask the body to vote on whether it is germane. This can be done directly —by asking the body to debate and vote— or indirectly by making a ruling and inviting members to appeal.

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<sup>5</sup> But what if the motion was to add 'and Senator Green'? Suppose the amendment passes and then the main motion fails. The failed motion was the body deciding it didn't want to honor them both. So, it may still be in order to introduce 2 separate motions, one honoring Senator Green and one honoring Senator Blue. That suggests the amendment is germane.

However, if both of the separate motions pass, that is logically equivalent to the failed motion which honored them both. That suggests it's not germane.

But maybe it's still germane because the earlier failure was based on members thinking it is tacky to honor two members in one motion, not on the basis that both shouldn't be honored.

Look. You decided to read this footnote. Don't blame me.

If you need a drink, go ahead. I'll still be here.

## **Previously decided questions**

The basic principle that every question is decided exactly once saved our bacon in deciding questions of germaneness. Unfortunately, as Robz giveth, so shall Robz taketh away.

This is because the consequences of approving an amendment are not always obvious. For example, once a motion to amend by inserting a word is approved, it is not in order to move to strike that word. But one can sometimes move to strike several words which include that previously inserted word; though only sometimes.

To make things worse, there are four kinds of amendment:

- Insert (add words)
- Strike (remove words)
- Strike and Insert (replace some words with different words)
- [The Amendment-Which-Should-Not-Be-Named](#)

Those distinctions impact what is in order once an amendment has been approved.<sup>6</sup> However, most senators are, rightly, blissfully unaware of the procedural differences between inserting a word and striking and inserting a word. Worse, sometimes which category an amendment falls under is ambiguous. Even worse, ignoring some of the specific rules sometimes allows for a cleaner and clearer discussion and is therefore the right choice. Other times, ignoring those rules and blithely pressing forward leads to disaster.

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<sup>6</sup> There is also a difference between amendments which affect words within a paragraph (resolved clause) and amendments which affect the paragraph. I don't have it in me to go into the differences.

If you now feel an appropriate sense of dread, let's talk through some of the basics and at least get a better sense of what's going on under the hood when the parliamentarian makes a pained face and takes awhile to advise the chair on a proposed amendment.

Suppose there's a proposal to amend a sentence in a resolution which says

That burritos be declared the official food of the senate

by replacing 'burritos' with 'tacos' so it now reads

That ~~burritos~~ tacos be declared the official food of the senate.

The first thing to know is that, if anyone wants to propose a different food, now is the time. A banana-lover should suggest a second-order amendment to replace 'tacos' with 'bananas'. As soon as there is a vote which passes on replacing 'burritos', it is no longer in order to change the food. Though if the motion to replace 'burritos' fails, then it remains in order to try to replace 'burritos' with something else.

How does that make sense? Think of the amendment as opening the question 'What food should be the official food (if we decide to have one)?' If replacing 'burritos' with 'tacos' is approved, we have decided that, if we are going to have any official food, it will be tacos. If the replacement fails, we have decided only that we don't want tacos to be our official food. Thus it would be out of order to attempt to replace 'burritos' or whatever it is replaced with by 'tacos'.<sup>7</sup>

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<sup>7</sup> Would it be in order to insert 'and bananas' later after this amendment has been voted on? This is one of those places where the difference between types of amendments — strike and insert vs. insert — matters. However, my suggestion would be to ignore those niceties and tell the senate that this is their one and only chance to decide what food is at stake.



So, once we've decided on food(s), we are committed right? It's tacos or nothing, right?

Nope.

We've only decided one very small thing. There is a nearly unlimited amount of mischief still available. For example, if this sentence was part of a bigger resolution, it is in order to strike out the whole sentence. We've decided that if we are going to have a position on an official food, it will be a position on tacos. Whether we want to have an official food is a different topic than what food it should be. It's even still in order to add "to not be" before "the official food." That's a germane different position towards the food we've decided to discuss.

### **Other advice**

If you aren't a parliamentarian yet, I have bad news for you. If you've made it this far, the disorder is only incipient; it is only a matter of time. Let me sum up with some general advice to you or your future self.

First, when every amendment is made, try to fix two things firmly in your mind:

What is this amendment about?

What is the amendment doing?

You've seen examples of this throughout the above. In the official food example, the amendment was about what food we should formally take an attitude towards. Write these down if need be. These will affect what secondary amendments are in order and what other changes can be made after the motion has been voted upon. Yes, this seems excessive. But when you've gone through multiple proposed amendments on closely related language, you will thank me.

Second, the more members understand what is happening and its consequences, the smoother things will run. Err on the side of annoying your members by routinely spelling out the motion and its consequences. Say things like:

“We are going to vote on which food is at stake in this discussion. The proposal is that it be burritos rather than tacos. After we decide this, it will not be in order to change the food. But we can still decide whether we want to take a different position or any position at all with regard to this food.”

Obviously, folks have limited patience and there is little benefit to adding complication where it is unhelpful. Know your senate and act accordingly. That said, also be mindful of the benefits to getting the body used to how amendments work when things are easy. That will help when things are hard.

Third, if you have a sense that the matter under discussion is going to attract a lot of debate and revision, when you advise the chair, always push towards simpler and more atomistic amendments. “Thank you Senator. I’m hearing 3 different changes here. Let’s take them one at a time” is a phrase which saves ~~live~~ meetings. A slew of small amendments can seem annoying or unnecessary, but it makes things procedurally much simpler than wide-ranging or complicated ones. Your members will never thank you for it, but you will feel a warm glow when you reflect on how badly things would’ve gone if you had permitted that complicated amendment given the discussion over the smaller ones (admittedly, that warm glow may be the whisky).

Good luck.