

The evil motion to Substitute

This is not the motion you are looking for....

Every time a motion to substitute is proposed, a puppy cries, a kitten walks into a chair leg, a page falls out of a parliamentarian's copy of Robert's Rules.

Oh. It is?

Really? Are you sure?

It. Never. Goes. Well.

The process is complicated. It gets hard for Senators to understand what is in order and when. That increases the likelihood of missed opportunities to contribute. It also requires debating and editing 2 pieces of text, one of which will ultimately be discarded. Motions to substitute thus increase tension and frustration. They cause crop failures, and are responsible for 82% of paper cuts and 64% of stubbed toes.¹

More importantly, the body can almost always get to the desired outcome in a more straightforward fashion with ordinary amendments or by voting the resolution down and proposing another.

But as much as it pains me to admit it, sometimes a substitute is in fact the cleanest way to do things. I'll first explain how they work and when they should be used. I'll then go over some of the complications and pitfalls they create.

The nature of the beast

¹ [citation needed]

Motions to substitute are a form of amendment. They do what it says on the tin—they substitute some text for existing text. In essence, the motion to substitute is the evil cousin of amending by striking out and inserting. Instead of debating whether to replace some text with some other text and moving on, the motion to substitute requires that both sets of text be perfected before a vote on which to alter the resolution with.

Motions to substitute operate on large sections of text. In general, the motion to substitute cannot be made on units of text less than a whole paragraph (resolved clause). It is possible to propose a substitute of the entire resolution.²

On its face, a motion to substitute seems easy. Once moved and seconded, it has just 3 steps:

- 1) Edit the substitute text.
- 2) Edit the original text.
- 3) Vote on whether to replace the original text with the substitute text

Like all great evils, the motion to substitute seems attractive, fun even. But like a vampire, once you invite them in, they will ineluctably devour your meeting.³

How chairs should understand motions to substitute

When a member says they would like to propose a substitute, they almost always mean that they would like to strike out some text and replace it with other text. This is an ordinary, garden variety, amendment. Nothing special. The Chair should normally proceed with the usual strike-and-insert amendment, leaving the body ignorant of the great horror they have narrowly avoided.

If the member insists that they intend a genuine substitute, or if that is the evident desire (e.g., they are proposing an alternative resolution), before calling for a second, the Chair should attempt to dissuade them or find ways to proceed without the substitute. In doing so, the Chair should, in hushed tones, make clear

² Can you propose a substitute to a substitute? Only if (a) the motion to substitute was a primary amendment and (b) you are a monster.

³ The Chair may exercise discretion in which version gets edited first. Robz recommends editing the original first. I have found editing the substitute first helps members not lose track of what's in order and when.

the great evil that proceeding in this way will unleash. Obviously, if the member persists and the motion is seconded, the body must descend into the darkness.

When it is what you need

All of that said, there are some cases in which a substitute is the appropriate form of amendment. Here are some such situations:

- 1) Members have 2 very different, internally coherent, views on something.
- 2) A resolution would need a massive set of amendments to convert it to an alternative view.
- 3) Time or other considerations rule out voting down the resolution and introducing a different one.

To see this, suppose the following resolution is introduced:

RESOLVED, That the senate appreciate the flavor of bananas; and be it

RESOLVED, That the senate appreciate the smooth texture of a banana; and be it

RESOLVED, That the senate find jokes involving the slipperiness of banana peels to be hilarious; and be it

RESOLVED, That the senate enjoy the fact that a banana's peel acts as nature's wrapper facilitating easy disposal; and be it finally

RESOLVED, That the senate declare bananas its official food.

This is obviously unacceptable to the taco partisans. Their preferred resolution would read:

RESOLVED, That the senate appreciate the portability of tacos; and be it

RESOLVED, That the senate enjoy the myriad of taco fillings, though affirm that al pastor is the best; and be it

RESOLVED, That the senate appreciate the complex interactions of texture and flavor afforded by a well-made taco; and be it

RESOLVED, That the senate object to the idea that tacos be only enjoyed on Tuesdays; and be it

RESOLVED, That the senate declare every day taco day; and be it finally

RESOLVED, That the senate declare tacos its official food

Now, the taco partisans could (should) vote down the banana resolution and later introduce their own.⁴ But suppose time is limited and they want to take the opportunity to promote their own favored food.

One way they could approach this is by amending each resolved clause in the banana resolution to read as endorsing tacos. This will require a lot of individual amendments. Moreover, for some resolved clauses there will be problems with germaneness—the taco resolution is silent on their potential for comedy. Finally, if the order of amendments are not handled deftly, the resolution may devolve into an incoherent mix of taco and banana advocacy.

In this situation, as much as it pains me to say it, if everyone is intent on proceeding via amendment, substitution is the motion we are looking for. Here's how it works.

Once the banana resolution has been moved and seconded, a taco partisan moves to substitute the text of the taco resolution for the text of the main motion.⁵ Like all amendments, this requires a second. Upon being seconded, the proposed substitute is before the body.

⁴ Note that this move is in order because in rejecting the banana resolution, the senate has only decided that it does not want to declare bananas its official food. It would not be in order to bring up the banana resolution again in the same session. But other foods are perfectly fine.

⁵ The motion to substitute can be made at any point during debate on the original. Imagining that the motion is made right up front avoids some complications (see below). Indeed, if the Chair is aware that a substitute will be introduced, she should arrange the speakers list so that this happens before other amendments.

The body first considers amendments on the proposed substitute. There may be, for example, several (deeply misguided) competing amendments over the affirmation that al pastor is the best.

Once there are no further amendments to the taco version, the body then considers amendments to the banana original.

At long last, when there are no further amendments to the original, the body votes on whether to substitute the perfected taco resolution text for the banana original. If that vote passes with a majority (like all amendments), the main motion is now the taco resolution. If it fails, the main motion is now the perfected banana resolution.

Procedural issues during perfection

There are several interesting (in the sense of drives-one-to-madness) questions unique to substitutes which arise during the process of editing the competing blocks of text.

If an amendment was introduced and defeated before perfection begins, can it be reintroduced?

Suppose that before the substitute is introduced, an attempt to amend the original (banana) resolution by inserting

RESOLVED, That it is of vital importance for the senate to declare an official food is defeated. Is it in order to reintroduce this amendment into the substitute (taco) resolution?

Yes. The substitute is effectively a different resolution (or block of text). Thus it is permissible to introduce a previously defeated amendment into the substitute during perfection of the substitute. All that has been decided is that the amendment cannot be introduced into the original (in same place).

Can amendments adopted before the substitute is introduced be changed?

Suppose that before the substitute resolution was introduced, there was disagreement about the clause:

RESOLVED, That the senate appreciate the smooth texture of a banana; and be it

An amendment striking this clause was introduced and passed. After the substitute (taco) resolution has been perfected and work has begun on perfecting the original, can this clause be reinserted?

No. The original resolution is still the original resolution. The body has decided to not include this clause in the original resolution.⁶

Amendments which attempt to make the substitute into the original or vice-versa

A more subtle issue is whether it is permissible to make amendments that would transform the substitute into the original or vice-versa.⁷ Robz is not explicit about this. But we can reason our way through.

Suppose the taco partisans introduce their substitute. Once perfection of the (banana) original begins, they attempt to make amendments which strike 'bananas' and replace it 'tacos', et cetera.

On the face of it, these amendments are novel—they have not yet been considered for the original text—and in many cases they will be germane—tacos and bananas are both foods.

To see why this attempt is not in order, suppose they are even bolder and move to strike all the text in the original and replace it with all the text in the substitute.⁸ A decision on that motion is ipso facto a decision on the motion to

⁶ As always, it is (usually) in order to add the language about texture inside another existing clause (assuming it is germane). What has been decided is that it cannot be a standalone clause (or, at least, not standalone in that particular location).

⁷ You might think this is unlikely. Maybe in your senate. But I've seen some version of this almost every time I have failed to dissuade a substitute.

⁸ This could also be ruled out of order because amendments (generally) shouldn't affect more than 1 clause at a time.

substitute while in the middle of deciding whether to substitute. That is, if the motion passed, the original and substitute would now be identical. There is no choice to be made between them, yet the motion to substitute is still pending. Or, to put it another way, there is no possibility of voting against the motion to substitute. Thus the motion to substitute can never be escaped. It is never in order for the body to vote itself past the parliamentary event horizon.

Of course, irenic motions like inserting 'and bananas' after 'tacos' in the substitute could still be in order. A resolution endorsing both tacos and bananas is different from one endorsing only bananas.

But what if motions to insert 'and bananas' after 'tacos' in some but not all places in the substitute passes. Is it in order to insert 'tacos and' before 'bananas' in the original?

This is the point where the parliamentarian has a stroke.

Look. I told you that motions to substitute are a hellscape of confusion and judgment calls. I warned you not to do it. This is your fault.

Okay, fine. Sorry. It is my example after all.

At the end of the day, as with most hard questions of procedure, your lodestar is the question: Would this motion decide something already decided (or put us in a position where we have to do that)? If the answer is 'yes', then the motion is not in order. Cling to this in the darkness.

Procedural issues after perfection

The substitute has been perfected. The original has been perfected. No one has lost an eye. The light shines faintly, but definitely, in the distance.

All that's left to do is vote and be done. We're home free! We've made it!

Wait.

What do we vote on? What do we do in the aftermath?

The vote(s)

Once all amendments on both versions have been considered, the body votes on whether to replace the perfected original (banana) text with the perfected substitute (taco) text.

One misconception is that we need to vote twice on the substitute: first on which version should be the amendment and then on whether to adopt the amendment. If the motion to substitute is a primary amendment (not an amendment to an amendment), there is only one vote: whether the main motion should be / contain the substitute text.⁹

If this motion passes, the perfected original (banana) text is replaced with the perfected substitute (taco) text. The main motion is now the taco text.

If this motion fails, the perfected original (banana) text is retained and the substitute (taco) text is discarded. The main motion is now the perfected banana text.

What now?

The chthonic ordeal has ended. You now stand triumphantly blinking in the light. The motion to substitute has been taken care of. All that's left is to do is vote on whether to adopt the resolution. The chair takes a breath and prepares to call for a vote. Suddenly, a miscreant, er, member, seeks recognition. What possibly could they want? Hopefully they just have a question....But no. That jerk wants to make an amendment. Now what?

I'm sorry. I am now out of tissues. All the plates in my kitchen have been therapeutically smashed whilst writing this. My dog is hiding, softly whimpering. I just don't have it in me to consider all the possibilities.

⁹ If the motion to substitute was a secondary amendment (amends an amendment), the primary amendment still needs to be voted on.

Just remember the principle against double consideration —every question is decided exactly once. Whatever text was decided on —the perfected banana original or the perfected taco substitute— cannot be altered.¹⁰ If the resolution passes, it will contain that text.

Similarly, if an amendment was rejected during perfection of the adopted text, it cannot be reintroduced. An amendment that was adopted during perfection of the rejected text (e.g., amendments to the original when the substitute was adopted) could be in order, as long as it does not conflict with the text that was decided upon in the substitution.

Why ‘could be in order’? Well, if the substitution concerned the entire resolution and the perfected original was adopted instead of the proposed substitute, no amendments to the resolution are in order after the substitution is decided. Okay fine. I can think of some exceptions to this. No. I am absolutely not telling you about them.

Now, if you’ll excuse me, I need a drink.¹¹ I may, someday, forgive you for putting me through this.

¹⁰ Want to hurt your head? Try thinking through where and when a motion to reconsider can be made.

¹¹ Would you believe that I’ve actually substantially simplified the rules around substitutions and that there are a bunch of sometimes important nuances that I’ve ignored? I’ll let that thought haunt your nightmares.