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Invoking Cloture in the Senate

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Cloture is the only procedure by which the Senate can vote to set an end to a debate without also rejecting the bill, amendment, conference report, motion, or other matter the Senate has been debating. As an alternative, a Senator can make a nondebatable motion to table an amendment, for example, and if a majority of the Senate votes for that motion, the effect is to reject the amendment. Thus, the motion to table cannot be used to conclude a debate when Senators still wish to speak and to enable the Senate to vote *for* whatever proposal it is considering. Only the cloture provisions of Rule XXII achieve this purpose.

There are several stages to the process of invoking cloture.

- ! First, at least 16 Senators sign a cloture motion, sometimes also called a cloture petition. That motion states: “We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon [the matter in question].”
- ! To present a cloture motion, a Senator may interrupt another Senator who is speaking. When the motion is presented, the clerk reads it for the information of the Senate. During the 107th Congress, cloture may not be filed on “an amendable item during the first 12 hours of Senate debate.”
- ! The cloture motion then lies over until the second calendar day on which the Senate is in session. If the motion is filed on Monday, for example, it lies over until Wednesday, assuming the Senate is in session daily. But if the motion is filed on Friday, it lies over until Tuesday unless the Senate was in session on Saturday or Sunday.
- ! The Senate votes on the cloture motion one hour after it convenes on the second calendar day after the cloture motion was filed, and after a quorum call has established the presence of a quorum. The time for the cloture vote may be changed by unanimous consent, and the required quorum call often is waived by the same means.

- ! The presiding officer presents the cloture motion to the Senate for a rollcall vote at the time required by Rule XXII, even if the Senate had been considering other business between the time the cloture motion was filed and the time arrived for voting on the motion.

- ! The majority required to invoke cloture is 3/5 of the Senators duly chosen and sworn, or 60 votes if there are no vacancies in the Senate's membership. However, invoking cloture on a measure or motion to amend the Senate's rules requires the votes of 2/3 of the Senators present and voting, or 67 votes if all 100 Senators vote.

Senators who wish to offer amendments to a bill or amendment on which cloture has been invoked must submit their amendments in writing before the cloture vote takes place. First-degree amendments (which propose to change the text of a bill or a committee amendment in the nature of a substitute) must be submitted in writing to the journal clerk when the Senate is in session, but no later than 1:00 p.m. on the day after the cloture motion is filed. Second-degree amendments (which propose to amend first-degree amendments) must be submitted in the same way at least one hour before the Senate begins to vote on the cloture motion.

Cloture may be invoked only on a matter that is pending before the Senate or on the unfinished business. Thus, it is not in order, except by unanimous consent, to invoke cloture on a bill before the Senate has agreed to consider it.

There is no limit on the number of times that the Senate can vote on motions to invoke cloture on a bill, amendment, or other matter it is considering. For example, one cloture motion may be filed on Monday, with the vote to take place on Wednesday, and a second cloture motion may be filed on Tuesday, with the vote to take place on Thursday, assuming, of course, that the Senate fails to agree to the first cloture motion. As many as six or more attempts have been made to invoke cloture on the same question.

If an amendment has been offered to a bill, the Senate may invoke cloture either on the bill or on the amendment. Sometimes Senators propose to invoke cloture on the bill, but sometimes they prefer to invoke cloture on the amendment instead. The reason lies in the requirement that, after the Senate invokes cloture, it may consider only amendments that are *germane*. This germaneness requirement applies to amendments that are pending at the time that cloture is invoked as well as to amendments that Senators offer after the Senate has voted for cloture. Thus, if the Senate invokes cloture on a bill, the presiding officer immediately rules on whether any pending amendment is germane. If the amendment is not germane, it is not eligible for further consideration.

If the Senators who wish to expedite passage of a bill also support a pending amendment to the bill, they cannot invoke cloture on the bill without also killing the amendment they support. Their alternative is to ask the Senate to invoke cloture on the amendment, not on the bill. Doing so protects the amendment from becoming subject to the germaneness requirement. After the Senate agrees to the amendment, however, it may be necessary for the Senate to invoke cloture a second time, on the bill as amended.

For additional information, see Senate Rule XXII and *Riddick's Senate Procedure*, pp. 282-334.