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Motions to Proceed to Consider in the Senate: Who Offers Them?

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Summary

In recent practice, the Senate generally concedes to its majority leader the prerogative of calling up measures for floor consideration. Most measures are called up by unanimous consent, but when this consent cannot be obtained, a motion to proceed to consider is used. Sometimes a Senator other than the majority leader offers this motion, but usually only in coordination with him and as his designee. Of 261 motions to proceed offered in the Senate from 1979 through 2002, all but eight were evidently offered either by the majority leader or at his direction. Only one of the remaining eight successfully resulted in consideration of the measure in question. This report will be updated at the end of each Congress.

The Motion to Proceed and the Senate Agenda

Business may reach the floor of the Senate for consideration in three ways: pursuant to a call of the Calendar, by unanimous consent, or through agreement to a motion to proceed to consider. The formal Calendar call has for several decades become disused, and the motion to proceed to consider is normally used only when unanimous consent cannot be obtained. As a consequence, most measures (bills and resolutions) today reach the floor by unanimous consent; the number called up through a motion to proceed to consider has not exceeded a few dozen in any recent Congress.¹ The measures called up by motion, however, are more likely to be controversial or highly contested.

Senate Rule VIII, paragraph 2, provides for the motion to proceed to consider a measure or matter (often called simply a “motion to proceed”).² The rule places no

¹ Items of executive business (i.e., nominations and treaties) are also called up by unanimous consent or through motions to proceed to consider. This report, however, examines only motions to proceed to consider legislative business.

² U.S. Congress, Senate, *Senate Manual, Containing the Standing Rules, Orders, Laws, and*
(continued...)

restrictions on who may offer the motion.³ In the course of the twentieth century, however, the Senate came increasingly to accord its majority leader the responsibility for arranging and implementing its floor agenda. The Senate nowadays normally concedes to the majority leader the prerogative of calling up measures, either by motion or by unanimous consent. In the absence of this deference, it would become difficult for any majority leader to carry out the function of managing the schedule. Even in recent Congresses, nevertheless, some motions to proceed have also been offered by other Senators. These actions suggest questions about how far Senate deference to leadership scheduling efforts extends.

Senators Offering the Motion to Proceed

Most measures reach the Senate floor by unanimous consent. This consent may be granted in the form of either (1) a simple request for unanimous consent that the Senate proceed to consider the measure, or (2) a broader unanimous consent agreement that either specifies when the measure shall come before the Senate, or authorizes the majority leader to call it up at some subsequent point, and also sets terms for its consideration. If a Senator objects to such a request, especially a simple unanimous consent request, the majority leader may then offer a motion to proceed. Also, if the leadership is aware that a unanimous consent request would meet objection, the motion to proceed may be offered without first making such a request.

In contemporary Senate practice, requests for unanimous consent to consider a measure, especially broad unanimous consent agreements, are most often propounded by the majority leader personally. Sometimes, however, especially in the case of simple consent requests, they are offered by the majority whip, or by another Senator acting in coordination with and as the designee of the majority leader. Finally, such a request also may be offered by a Senator not acting in coordination with the majority leader, but in that case the leader, or a Senator acting for him, will normally object to it, thereby protecting majority party control of the floor agenda.

Similarly, motions to proceed to consider measures are most often offered by the majority leader personally, but they also may be offered by the majority whip or another Senator acting for the majority leader. In addition, Senators have occasionally offered motions to proceed in the absence of direction or even consent from the majority leader. The table on the following page displays the number of motions to proceed to consider offered by the majority leader, the majority whip, other designees of the majority leader, and other Senators, in the 96th through 107th Congresses (1979-2002).

² (...continued)

Resolutions Affecting the Business of the United States Senate, S.Doc. 107-1, 107th Cong., 1st sess., prepared by Andrea LaRue under the direction of Kennie L. Gill, Staff Director and Chief Counsel, Committee on Rules and Administration (Washington: GPO, 2002), sec. 8.2.

³ A motion to proceed may also be offered pursuant to a statute that establishes procedures for expedited consideration of a specific measure, such as a resolution of approval or disapproval. In general, these statutes too place no formal restriction on who may offer the motion to proceed. For information on these “expedited procedures,” see CRS Report 98-888, “*Fast-Track*” or *Expedited Procedures: Their Purposes, Elements, and Implications*, by Christopher M. Davis.

Motions to proceed offered by the majority whip were presumed to have been offered in coordination with the majority leader. Other Senators offering motions were also presumed to be acting as designees of the majority leader unless the record of proceedings afforded positive evidence to the contrary. In most such cases, the proceedings offered positive evidence that the motion was offered by direction of the majority leader. Sometimes, for example, Senators offering these motions stated explicitly that they were doing so on behalf of the majority leader. In other cases, the Senator offering the motion also submitted a petition for cloture on the motion that was signed, among others, by the majority leader. On other occasions, the Senator offering the motion did so in the course of a series of actions normally carried out by the majority leader or his designee.

**Senators Offering Motions to Proceed to Consider Measures,
96th-107th Congresses**

Congress and (Years)	Total	Offered By			
		Majority Leader	Majority Whip	Majority Leadership Designee	Other
96 (1979-1980)	15	11	1	1	2
97 (1981-1982)	12	10	1	0	1
98 (1983-1984)	22	20	2	0	0
99 (1985-1986)	14	10	0	3	1
100 (1987-1988)	24	24	0	0	0
101 (1989-1990)	16	15	0	0	1
102 (1991-1992)	40	30	7	3	0
103 (1993-1994)	11	10	1	0	0
104 (1995-1996)	14	10	2	2	0
105 (1997-1998)	30	20	0	9	1
106 (1999-2000)	41	38	1	1	1
107 (2001-2002)	22	13	8	0	1
Total	261	211	23	19	8
<i>Percent of total</i>	<i>100</i>	<i>81</i>	<i>9</i>	<i>7</i>	<i>3</i>

Source: Legislative Information System of the U.S. Congress; *Congressional Record*; *Journal of the Senate*.

Method and Sources of Data. From the 97th Congress onward, the motions to proceed accounted for in the table were identified through an electronic search of legislative status information in the congressional Legislative Information System. For earlier Congresses, this database contains only limited legislative status information, and motions to proceed in the 96th Congress were identified instead through examination of

the *Journal of the Senate*. For all Congresses, information about who offered the motions was obtained from the *Congressional Record* and the *Journal of the Senate*.

Sometimes more than one motion to proceed was offered on a single measure. This may occur if the Senate fails to adopt the first motion, or returns the measure to the Calendar after some consideration and later takes it up again. The table treats each motion to proceed separately; in other words, it shows the number of motions to proceed actually offered on bills and resolutions, not the number of bills and resolutions on which motions to proceed were offered. Also, the table includes motions to proceed not only to the initial consideration of measures, but also to consider conference reports.⁴

Motions Not Offered by Direction of the Majority Leader

Summary and Context. By the criteria noted, during the 12 Congresses studied, only eight motions to proceed to consider could be identified as offered other than by direction of the majority leader. Of these eight motions, four were offered by the minority leader, and three by other minority party Senators. Also, seven of the eight motions were offered under the general rules of the Senate, while the eighth was offered pursuant to a statute establishing an expedited procedure that makes privileged the consideration by the Senate of a specified measure, such as a resolution of approval or disapproval.⁵

Only one of these eight motions ultimately succeeded in bringing about consideration of the measure in question. Three of the eight were tabled; two were ruled out of order; and one received no further action after the Senate voted not to invoke cloture on it. The one offered by a majority party Senator was adopted, but this action was immediately afterwards vitiated by unanimous consent. The one offered pursuant to an expedited procedure was adopted, and the Senate proceeded to a final disposition of the measure.

Comparable data on the dispositions of motions to proceed offered by, or in coordination with, the majority leader have not been comprehensively compiled. Normally, however, few motions to proceed are defeated outright, because a motion unlikely to command majority support would not likely be offered in the first place. Instead, most of those not adopted never reach a final vote. Some fail to reach a vote because the Senate ultimately agrees to take up the measure by unanimous consent. In other cases, for example, a filibuster prevents a vote from occurring, or the motion is either displaced by subsequent action or withdrawn.

⁴ The motion to proceed to consider a measure is normally debatable, except under certain special circumstances. The motion to proceed to consider a conference report, an item of executive business, a measure subject to an expedited procedure, or another privileged matter is generally not debatable. This report does not consider which of the motions to proceed it examines were debatable or non-debatable.

⁵ A motion to proceed may also be offered pursuant to a statute that establishes procedures for expedited consideration of a specific measure, such as a resolution of approval or disapproval. In general, these statutes too place no formal restriction on who may offer the motion to proceed. For information on these “expedited procedures,” see CRS Report 98-888, “*Fast-Track*” or *Expedited Procedures: Their Purposes, Elements, and Implications*, by Christopher M. Davis.

Similarly, this report does not attempt to present data on unanimous consent requests to consider measures or the frequency with which different Senators propound them.

Motions Not Offered by Direction of the Majority Leader. The following paragraphs describe the eight motions to proceed to consider that were not offered by direction of the majority leader. Each description identifies the measure number and subject, the Congress and date of action, and the disposition of the motion to proceed, with a citation to the *Congressional Record* and (where available) *Senate Journal*. Each description also notes any special circumstances surrounding the motion to proceed and any subsequent action on the measure. This additional information was drawn principally from the *Record* and the legislative status database of the Legislative Information System of Congress.

S.Con.Res. 119, 96th Congress. On September 25, 1980, the Senate minority leader moved to proceed to consider S.Con.Res. 119, revising the congressional budget resolution. The motion was offered pursuant to a unanimous consent agreement previously secured by the Senate majority leader, which also limited the time for debate on the motion. The Senate tabled the motion to proceed, 55 to 36. (*Congressional Record*, vol. 126, pp. 27211-27216; *Senate Journal*, p. 642.) The Senate later considered the resolution, ultimately adopting the House companion measure, H.Con.Res. 448, which then went on to final congressional adoption.

H.R. 5829, 96th Congress. Also on September 25, 1980, the Senate minority leader moved to proceed to consider H.R. 5829, a tax-related measure that had been reported from the Senate Committee on Finance with an amendment reducing income tax rates. The minority leader did so immediately after the action just described, and pursuant to the same unanimous consent agreement, which also limited the time for debate on this motion. The Senate tabled the motion to proceed, 54 to 38, and the measure received no subsequent floor action. (*Congressional Record*, vol. 126, pp. 27216-27221; *Senate Journal*, p. 642.)

H.R. 4331, 97th Congress. On July 31, 1981, a minority party Senator moved to proceed to consider H.R. 4331, to restore minimum social security benefits. The chair held the motion to proceed out of order on grounds that the measure was not yet on the Calendar. The Senator who had offered the motion to proceed appealed the ruling, but the Senate sustained the chair, 57 to 30. (*Congressional Record*, vol. 127, p. 19148; *Senate Journal*, p. 426.) Subsequently, after the measure reached the Calendar, the Senate took it up by unanimous consent and passed it, and it became P.L. 97-123.

H.R. 1460, 99th Congress. On September 10, 1985, the Senate minority leader moved to proceed to consider the conference report on H.R. 1460, for sanctions against apartheid. The minority leader withdrew the motion to proceed after filing a motion for cloture thereon. (*Congressional Record*, vol. 131, p. 23226; *Senate Journal*, p. 421.) At the time these proceedings occurred, the conference report had already been called up pursuant to action by the Senate majority leader; two cloture motions had been offered on it; and the first cloture motion had been rejected. Subsequently, the Senate rejected the second cloture motion on the conference report and the cloture motion on the motion to proceed to consider it. Thereafter, the Senate did not further consider either the conference report or a motion to proceed to consider it.

S. 2944, 101st Congress. On October 27, 1990, a majority party Senator moved to proceed to consider S. 2944, for aid to democratization in Eastern Europe. The Senate agreed to the motion by voice vote, but immediately thereafter vitiated its action by unanimous consent, “in accordance with the customs of the Senate, and comity,” upon request of the chair of the committee of jurisdiction, who was also the sponsor of the measure. (*Congressional Record*, vol. 136, p. 36335; *Senate Journal*, p. 867.) The Senate did not subsequently consider the measure.

H.R. 4250, 105th Congress. On October 9, 1998, the Senate minority leader moved to proceed to consider H.R. 4250, on rights of medical patients under group health plans. The Senate tabled the motion to proceed, 50 to 47, and took no subsequent action on the measure. (*Congressional Record*, daily ed., vol. 144, p. S12100; *Senate Journal*, p. 807.)

S.Res. 44, 106th Congress. On February 12, 1999, a minority party Senator moved to proceed to consider S.Res. 44, to censure President Clinton. The chair held the motion to proceed out of order on grounds that the measure was not on the Calendar. Pursuant to the required prior notice, the same Senator then moved to suspend the rules to permit consideration of the motion to proceed. Adoption of a motion to suspend the rules requires a two-thirds’ vote. The Senate defeated a motion to postpone indefinitely consideration of the motion to suspend the rules, 43 to 56. Pursuant to a previous unanimous consent agreement, the motion to suspend the rules was deemed withdrawn because the motion to postpone had been defeated by less than a two-thirds’ vote. (*Congressional Record*, daily ed., vol. 145, p. S1462; *Senate Journal*, p. 151.) The resolution was subsequently referred to committee, and the Senate took no further action thereon.

S.J.Res. 34, 107th Congress. On July 9, 2002, the ranking minority member of the Committee on Energy and Natural Resources moved to proceed to consider S.J.Res. 34, which provided for approval of permanent nuclear waste repository site. S.J.Res. 34 had been reported from that Committee several weeks earlier. This joint resolution of approval was subject to expedited consideration under section 115 of the Nuclear Waste Policy Act of 1982 (P.L. 97-425; 42 U.S.C. 10135), and the motion to proceed was offered as privileged under that Act. Although the Act explicitly provides that “any Member of the Senate” may move to proceed to consider a resolution of repository siting approval, opponents of the measure had argued that the same deference should be granted to the majority leader in making this motion as in making motions to proceed under the Standing Rules. Although the Act provides that this motion to proceed be privileged and non-debatable, a unanimous consent agreement was reached that (1) the motion be debatable for four hours and thirty minutes, and (2) if the motion were agreed to, the Senate would immediately vote, without further debate or amendment, on the companion measure already passed by the House, H.J.Res. 87.⁶ Following the debate on the motion to proceed, the Senate agreed to it, 60 to 39, then adopted H.J.Res. 87 by voice vote, thereby clearing the measure for presentation to the President. (*Congressional Record*, daily ed., vol. 148, pp. S6444-S6491.)

⁶ This unusual modification of a statutory procedure was apparently intended to preclude a possible attempt by opponents to disrupt the statutory timetable by amending the joint resolution.