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

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Summary

In recent practice, the Senate generally cedes to its majority leader the prerogative of calling up items of business for floor consideration. Most measures are brought to the floor by unanimous consent, but when this consent cannot be obtained, a motion to proceed to consider can be used to accomplish the same purpose. Sometimes a Senator other than the majority leader offers this motion, but usually this occurs in coordination with the majority leader.

This report examines motions to proceed to consider items of legislative business (“measures”); it does not cover nominations or treaties (“executive business”). Motions to proceed to legislative business are normally debatable unless the underlying measure is “privileged,” which includes conference reports and measures subject to statutory expedited procedures. The data in this report do not distinguish between debatable and non-debatable motions to proceed. In some cases, as well, more than one motion to proceed was offered on the same measure; the report considers each motion as a separate unit for purposes of analysis.

Of 628 motions to proceed to consider measures in the Senate from 1979 through 2014, all but 28 were offered either by the majority leader or apparently at his direction. In the four most recent Congresses (2007-2014), the number of motions to proceed offered per Congress has been significantly greater than before. Reasons for this increase may relate to changes in (1) the use of daily adjournments rather than recesses, (2) the way cloture is used in relation to these motions, or (3) the degree of deference paid to the majority leader in the exercise of his scheduling function.

The report presents no overall data on the disposition of motions to proceed, but few are defeated outright, because those unlikely to command majority support are seldom offered, and those that are not adopted usually reach no final vote (for example, because they are withdrawn). Of the 28 motions clearly not offered by direction of the majority leader, by contrast, the Senate adopted 2, defeated 15, and laid 5 on the table. Four were abandoned after the Senate rejected cloture and two were ruled out of order.

Of these 28 motions, 15 were non-debatable because they addressed privileged matters (14 of them subject to expedited procedures under budgetary statutes or for congressional disapproval of executive actions). Of the 28 motions, 18 occurred in the 3 most recent Congresses (2009-2014), including 12 of the 14 that were non-debatable under expedited procedure statutes. These 18 motions also include 14 of the 20 offered by the minority leader, all 15 of those that the Senate defeated outright, and 12 of the 16 that the Senate considered under unanimous consent agreements.

The report concludes by describing the essential procedural features of the proceedings on each of these 28 motions. It will be updated to reflect action in later Congresses.

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Bringing Measures to the Floor in the Senate

In contemporary practice, bills and resolutions (collectively, “measures”) normally reach the floor of the Senate for consideration either by unanimous consent or through agreement on a motion to proceed to consider (often called simply a “motion to proceed” or “MTP”).¹ Most measures considered today reach the floor by unanimous consent; the motion to proceed is normally reserved for situations when unanimous consent cannot be obtained. In consequence, measures called up by motion are more likely to be controversial or highly contested than those considered by unanimous consent.

Unanimous consent to consider a measure 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 typically also prescribes terms for consideration, such as limits on debate and amendments. If any Senator objects to such a request, in either form, a motion to proceed may then be offered. However, if the leadership is aware that objection would be raised to such a unanimous consent request, the majority leader (or a designee) may offer the motion to proceed without first seeking unanimous consent. In these instances, the majority leader often files a cloture petition at the time the motion to proceed is made.²

Senate Rule VIII, paragraph 2, which provides for the motion to proceed, places no restrictions on who may offer the motion.³ Nowadays, however, the Senate normally cedes to the majority leader the prerogative of calling up measures, either by motion or by unanimous consent. Absent this deference, it would be difficult for any majority leader to carry out his function of managing the schedule, and in recent decades a substantial majority of motions to proceed have been offered by the majority leader. Nevertheless, other Senators have made that motion as well, sometimes without direction from the majority leader. This report presents data on the total number of motions to proceed offered in each recent Congress, with particular attention to the small number of these motions not made by direction of the majority leader.

Senators Who Offered Motions to Proceed

In contemporary Senate practice, both unanimous consent requests and motions to proceed to consider a measure are most often offered by the majority leader personally. Sometimes, however, they are offered by the majority whip, or by another Senator acting in coordination with and as the designee of the majority leader (for instance, the chair of the committee that reported the measure). Such actions also may be taken by a Senator not acting in coordination with the majority leader, most often by the minority leader. In such cases a Senator acting for the majority leader will typically take action to protect majority party control of the floor agenda. In the case

¹ Senate Rules also provide that measures may be brought to the floor on a call of the Calendar, but in recent decades this proceeding has fallen out of use.

² For a brief summary of the cloture process, see CRS Report 98-425, *Invoking Cloture in the Senate*, by (name redacted). Additional details are contained in CRS Report RL30360, *Filibusters and Cloture in the Senate*, by (name redacted) and (name redacted).

³ U.S. Congress, Senate, *Senate Manual, Containing the Standing Rules, Orders, Laws, and Resolutions Affecting the Business of the United States Senate*, S.Doc. 112-1, 112th Cong., 1st sess., prepared by Matthew McGowan under the direction of Jean P. Bordewich, Staff Director, Committee on Rules and Administration (Washington: GPO, 2011), §8.2.

of unanimous consent requests, this action will ordinarily consist of an objection to the request. In the case of motions to proceed, the Senate has often agreed to table the motion or defeat it outright.

Table 1 below 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 113th Congresses (1979-2014). For purposes of this report, motions to proceed offered by the majority whip were presumed to have been made in coordination with the majority leader. Other majority party 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. For most motions not offered by the majority leader or whip, the proceedings contained positive evidence that the motion was indeed offered by direction of the majority leader. Sometimes, for example, Senators offering these motions stated explicitly that they were doing so on the majority leader's behalf. In other cases, the Senator offering the motion also submitted a petition for cloture on that motion that included the majority leader among its signers. On other occasions, the Senator offering the motion did so during a course of actions normally carried out by the majority leader or his designee.

Method and Sources of Data

Table 1 identifies the number of motions to proceed to consider items of legislative business offered in each Congress from the 96th (1979-1980) through the 113th (2013-2014). From the 97th Congress onward, motions to proceed were identified through an electronic search of legislative status information in the Legislative Information System (LIS) or, for more recent years, Congress.gov. For earlier Congresses, these databases contain only limited legislative status information; for this reason, 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*.

The data displayed in **Table 1** reflect motions to proceed to the consideration of all forms of legislation. Items of executive business, which include nominations and treaties, are also brought to the floor by unanimous consent or a motion to proceed to consider, but this report does not address motions to proceed to executive business, and the figures in **Table 1** exclude them.

Table 1 includes both debatable and non-debatable motions to proceed. Under Senate Rules, motions to proceed generally are debatable, but a motion to proceed to consider a conference report is not debatable, and the same is true of a motion to proceed to a measure under a statutory expedited procedure.⁴ Finally, on any measure, a motion to proceed is non-debatable if offered during the “morning hour.”⁵ This proceeding, however, has seldom been used since the 1980s.⁶

⁴ An “expedited procedure” is a statutory provision that establishes procedures to facilitate timely consideration of a specific class of measure, such as a congressional budget resolution, under the Congressional Budget Act (2 U.S.C. 601-688), or a resolution to disapprove a regulatory rule proposed by an executive branch agency, under the Congressional Review Act (5 U.S.C. 801-808). Most statutory expedited procedures, which are also known as “fast track” procedures, include provision for motions to proceed to consider measures of the specified class and, like the general Senate Rules, place no formal restriction on who may offer these motions. For additional information, see CRS Report 98-888, “Fast-Track” or Expedited Procedures: Their Purposes, Elements, and Implications, by (name redacted).

⁵ On morning hour proceedings, see “Motions to Proceed” in CRS Report RS20668, *How Measures Are Brought to the* (continued...)

Sometimes more than one motion to proceed was offered on a single measure. This may occur if the Senate rejects the first motion. It may also occur if the Senate adopts the first motion, but lays the measure aside before a decision, and later proposes to take it up again. A third possibility is that the Senate adjourns while a motion to proceed is pending, for the adjournment causes the motion to “fall,” meaning that it is no longer pending. On a subsequent day, accordingly, the Senate could decide to take up the measure only if a new motion to proceed is offered. In these and similar cases, 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.

Frequency of Motions to Proceed

As **Table 1** shows, from the 96th through the 113th Congress (1979-2014), a total of 628 motions to proceed to consider measures were offered, 86% of them by the majority leader personally and 96% of them either by the majority leader or under his direction. On average, 35 motions to proceed per Congress were made during this period. Five Congresses exceeded this average, including three of the four most recent ones. The 113th Congress reaches a high-water mark with 124 motions to proceed offered during that 2-year period.

Consideration of several features of contemporary Senate practice permits conjectures about the reasons for the increase. One possible explanation may lie in the Senate’s practice of not permitting a motion to proceed to be offered while another such motion is already pending.⁷ If, as suggested in the next section, the Senate has lately started to display less deference to the majority leader in offering motions to proceed, then it is possible that the majority leader has resorted more frequently to offering these motions as a means of precluding others from offering their own motions to proceed to other measures. By Senate precedent, only one motion to proceed to a measure may be pending before the chamber at any given time.⁸

(...continued)

Senate Floor: A Brief Introduction, by (name redacted).

⁶ Under Senate precedents, it has also been possible, during the period examined in this report, to make the motion to proceed to consider a nomination or treaty in a non-debatable form, and this proceeding is now routinely used. On considering items of executive business, see CRS Report 98-709, *Senate Executive Business and the Executive Calendar*, by (name redacted).

⁷ See U.S. Congress, Senate, *Riddick’s Senate Procedure: Precedents and Practices*, by Floyd M. Riddick, Parliamentarian Emeritus, and Alan S. Frumin, Parliamentarian, 101st Cong., 2nd sess., S.Doc. 101-28 (Washington: GPO, 1992), p. 672-673.

⁸ *Ibid.*, p. 658.

Table I. Senators Offering Motions to Proceed to Consider Measures, 96th-113th Congresses

Congress and (Years)	Total	Offered By			
		Majority Leader	Majority Whip	Majority Leadership Designee ^a	Other Senator ^a
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
108 (2003-2004)	22	18	1	2	1
109 (2005-2006)	22	17	3	2	0
110 (2007-2008)	64	61	0	2	1
111 (2009-2010)	35	31	0	0	4
112 (2011-2012)	100	83	0	5	12
113 (2013-2014)	124	121	1	0	2
Total	628	542	28	30	28
<i>Percent of total</i>	<i>100%</i>	<i>86%</i>	<i>4%</i>	<i>5%</i>	<i>4%</i>

Sources: Legislative Information System (LIS); Congress.gov; *Congressional Record*; *Journal of the Senate*.

- a. Senators were presumed to be acting as designees of the majority leader unless the record of proceedings afforded positive evidence to the contrary.

Another potential explanation might involve the procedural distinction between recessing and adjourning at the end of the day. In the earlier years of the period covered, it was common for the Senate to recess at the end of most daily sessions, whereas in more recent years the Senate usually adjourns at the end of each day. Accordingly, in previous decades it was often possible for the Senate to continue considering a single motion to proceed to a specific measure on several successive days, while today the Senate would need to renew the motion to proceed by offering it a second time. The Senate's shift toward daily adjournments, however, seems to predate the rise in motions to proceed by many years, making it less likely that this shift in practice accounts for

the rise.⁹ Nevertheless, the use of daily adjournments creates conditions in which renewing motions to proceed may be required more often.

In recent times, perhaps reflecting the shift from recesses to adjournments as the preferred method of concluding business for the day, the Senate rarely considers motions to take up a specific measure over a period of several days. Instead, after offering a motion to proceed, the majority leader often immediately files for cloture on the motion and then withdraws it. Even if the Senate then adjourns at the end of the day, this proceeding makes it unnecessary to renew the motion to proceed on a following day, for the Senate instead pursues other business until the cloture vote occurs, and if the Senate invokes cloture, the original motion to proceed automatically returns as pending.

This report provides no overall data on how the Senate disposes of motions to proceed. Few such motions, however, are defeated outright, because a motion to proceed that was unlikely to command majority support usually would not be offered in the first place. Instead, most motions to proceed that are not adopted simply do not reach a final vote. Some, for example, fail to reach a vote because the Senate ultimately agrees to take up the measure by unanimous consent. In other cases, a filibuster prevents a vote from occurring, or the motion is either displaced by subsequent action or withdrawn. By contrast, as noted in the next section, many of the motions to proceed not offered by direction of the majority leader are defeated outright.

Motions Not Offered by Direction of the Majority Leader

Summary of Characteristics

During the 18 Congresses studied, 28 motions to proceed to consider could be identified as being offered other than by direction of the majority leader. Of these 28, 20 were offered by the minority leader, 7 by other minority party Senators, and the remaining 1 by a majority party Senator. Relevant details surrounding the consideration of each motion are provided in the next section.

Two of these 28 motions to proceed were adopted by the Senate. Of the remaining 26 motions, the Senate defeated 15 outright and tabled 5 more. In four cases, the Senate turned to other business after rejecting cloture on the motion to proceed. The final two were ruled out of order. Of the two motions adopted, one led to final passage of the measure in question, a joint resolution (S.J.Res. 34) adopted in 2002 to approve a site for a permanent nuclear waste repository at Yucca Mountain, Nevada. Agreement to the other motion to proceed was vitiated by unanimous consent immediately after it was adopted. In addition, however, one of the measures on which the Senate tabled a motion to proceed, and one on which the motion to proceed was ruled out of order, were taken up by the Senate at a later date and agreed to.

⁹ In the 112th Congress, for instance, during which 100 motions to proceed were offered, 92% of the Senate's daily sessions ended with an adjournment, but in the 111th Congress, during which only 35 motions to proceed were offered, 98% of the daily sessions ended with an adjournment.

Thirteen of these 28 motions were offered under the general rules of the Senate, under which they were debatable; the remaining 15 addressed matters that, under Senate practice, are considered privileged, meaning that motions to proceed to their consideration are not debatable. One of these 15 motions proposed to bring up a conference report; the remaining 14 were offered pursuant to statutory expedited procedures. Of those 14 motions, 6 addressed congressional budget resolutions under the Congressional Budget Act (“CBA”; P.L. 93-344, codified as amended at 2 U.S.C. 601-688) or other measures governed by statutory procedures for budgetary measures; 7 concerned joint resolutions to disapprove proposed regulations under the Congressional Review Act (“CRA”; Title II of P.L. 104-121, codified at 5 U.S.C. 801-808); and 1 concerned a disapproval resolution under the Nuclear Waste Policy Act of 1982 (P.L. 97-425; codified at 42 U.S.C. 10101 et seq.).

Both the number and percentage of motions offered other than by direction of the majority leader exhibited a distinct increase in recent Congresses in comparison to previous periods. Eighteen of the 28 motions falling in this group were offered during the three most recent Congresses, suggesting a possible decline in the degree of deference the Senate accords to leadership scheduling efforts. The 18 motions offered during the last 3 Congresses include 14 of the 20 motions that were offered by the minority leader, to whom (at least in principle) the prerogative of making motions to proceed may be accorded. These 18 motions also encompass 12 of the 16 motions that the Senate has considered under unanimous consent agreements, which implicitly indicates at least some degree of acquiescence by, or prearrangement with, the majority leadership.

The recent increase in motions to proceed not offered by direction of the majority leader is partially accounted for by the rising number of motions to proceed that were non-debatable under expedited procedure statutes; 12 of the 18 such motions in the 111th through 113th Congresses fell into this group, compared with 2 of the 10 such motions in the earlier Congresses examined. To the degree that the purpose of expedited procedures is to protect the Senate’s opportunity to consider the measures they govern, the presumption that only the majority leader will make the motion to proceed in these situations may be less strongly established.

A common pattern distinguishes 7 of the 18 motions to proceed offered without direction from the majority leader in the 3 most recent Congresses. In these seven cases, a privileged motion to consider a disapproval resolution under the CRA was defeated outright by the Senate following a period of debate under the terms of a unanimous consent agreement. This pattern was not observed in any of the first six Congresses following enactment of the CRA: the 105th-110th Congresses (1997-2008).

Finally, the increase in motions to proceed not offered by direction of the majority leader was accompanied by shifts in the ways the Senate disposed of these motions. The 18 motions of this kind in the 3 recent Congresses include all 15 of those that the Senate defeated outright. By contrast, 4 of the 5 motions that the Senate tabled, and the only 2 that the Senate adopted, occurred during the previous 15 Congresses (1979-2008). This shift, too, is accounted for at least in part by the number of motions to proceed offered under expedited procedure statutes. When a motion to proceed is non-debatable, no motion to table is necessary in order to bring the Senate quickly to a vote on it. Perhaps for this reason, the 15 motions to proceed that were defeated outright include all 12 of those offered pursuant to expedited procedure statutes in the last 3 Congresses.

Instances

The following paragraphs describe the 28 motions to proceed to consider that were offered other than by direction of the majority leader during the period under study. 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*, LIS, Congress.gov, and *Congressional Quarterly*.

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, which was subject to the expedited procedures of title III of the Congressional Budget Act (“CBA”; P.L. 93-344, codified as amended at 2 U.S.C. 631-644). The motion was offered pursuant to a unanimous consent agreement previously secured by the Senate majority leader, which also provided limited time for debate on the motion. The Senate tabled the motion to proceed (55-36). (*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, 54-38, 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, 57-30. (*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 on it. (*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, 50-47, and took no subsequent action on the measure. (*Congressional Record*, vol. 144, p. 25070; *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, 43-56. 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*, vol. 145, p. 2380; *Senate Journal*, p. 151.) The resolution was subsequently referred to committee, and the Senate took no further action on it.

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, to approve a site for a permanent nuclear waste repository at Yucca Mountain, Nevada. 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 4 hours and 30 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. 87.¹⁰ Following the debate on the motion to proceed, the Senate agreed to it, 60-39, then adopted H.J.Res. 87 by voice vote, thereby clearing the measure for presentation to the President (*Congressional Record*, vol. 148, pp. 12323-12372; *Senate Journal*, p. 523); it ultimately became P.L. 107-200.

S. 1162, 108th Congress. On July 9, 2003, the Senate minority leader moved to proceed to consider S. 1162, to accelerate an increase in the refundability of the child tax credit, which had been introduced and placed directly on the Calendar early in the previous month. Shortly thereafter, the majority leader moved to lay on the table the motion to proceed, and the Senate agreed to this motion, 51-45. (*Congressional Record*, vol. 149, pp. 17255-17261; *Senate Journal*, p. 643.) No further action occurred in relation to the measure.

S. 2340, 110th Congress. On November 15, 2007, the Senate minority leader moved to proceed to consider S. 2340, a supplemental appropriations bill for ongoing military operations in Iraq and

¹⁰ 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.

Afghanistan, and filed cloture on the motion to proceed (*Congressional Record*, vol. 153, p. 31547; *Senate Journal*, p. 1159-1160). After debate, the majority leader obtained unanimous consent that the Senate vote on the cloture motion on the following day, and later also that the motion to proceed be withdrawn. Cloture was not agreed to, 45-53, on the following day (*Congressional Record*, vol. 153, p. 31855; *Senate Journal*, p. 1162), and the Senate took no further action on S. 2340.

S. 3153, 111th Congress. On March 25, 2010, the minority leader moved to proceed to consider S. 3153 and immediately moved for cloture on the motion to proceed. The bill contained short-term extensions of unemployment benefits and several other programs, with offsets to maintain deficit neutrality. It had been introduced by another minority party Senator two days previously and placed directly on the Calendar, as an alternative to H.R. 4851, which contained similar program extensions without offsets. After remarks by a third minority party Senator, the Senate adopted, 59-40, a motion by the majority leader to table the motion to proceed. (*Congressional Record*, daily ed., vol. 156, p. S2091-S2094; *Senate Journal*, p. 220.) No further action occurred on S. 3153; instead, later on the same day, the majority leader moved that the Senate proceed to consider H.R. 4851. After subsequently invoking cloture both on this motion and on a Senate substitute for the House bill, the Senate passed its version of this bill; the measure ultimately became P.L. 111-157.

S.J.Res. 26, 111th Congress. On June 10, 2010, pursuant to a May 25 unanimous consent agreement, a minority party Senator moved to proceed to consider S.J.Res. 26, to disapprove an Environmental Protection Agency finding that industrial emissions of greenhouse gases are hazardous. The measure was a resolution of disapproval subject to the expedited procedure of the Congressional Review Act (“CRA”; Title II of P.L. 104-121, codified at 5 U.S.C. 801-808) for disapproving regulations. Pursuant to this expedited procedure, the committee of jurisdiction had previously been discharged from the joint resolution. Under the CRA, the motion to proceed was not debatable, but the consent agreement under which the motion was made provided for 5½ hours of debate. After this debate, the Senate defeated the motion to proceed, 47-53. (*Congressional Record*, daily ed., vol. 156, pp. S4789-S4836; *Senate Journal*, p. 450.) Thereafter, in further pursuance of the consent agreement, the Senate took no further action on the disapproval resolution.

S.J.Res. 30, 111th Congress. On September 23, 2010, under the terms of a September 21 unanimous consent agreement, a minority party Senator moved to proceed to consider S.J.Res. 30, to disapprove a National Mediation Board rule under which votes in union representation elections in transportation industries would be counted in a way more favorable to unions. As in the previous case, the measure was a disapproval resolution under the CRA from which the committee of jurisdiction had previously been discharged. Under the act, the motion to proceed was non-debatable, but the consent agreement provided for two hours of debate, after which the Senate rejected the motion to proceed, 43-56. (*Congressional Record*, daily ed., vol. 156, pp. S7370-S7383; *Senate Journal*, p. 709.) Pursuant to the consent agreement, the Senate subsequently took no further action on the disapproval resolution.

S.J.Res. 39, 111th Congress. On September 29, 2010, pursuant to a unanimous consent order of the previous day, a minority party Senator moved to proceed to consider S.J.Res. 39, to disapprove a rule of the Centers for Medicare and Medicaid Services requiring existing health insurance plans to meet coverage requirements established under the Patient Protection and Affordable Care Act (P.L. 111-148, 124 Stat. 119, as amended). This measure, again, was a disapproval resolution under the CRA from which the committee of jurisdiction had previously

been discharged. Under the act, the motion to proceed was non-debatable, but again, the consent agreement provided for two hours of debate. After debate, the Senate defeated the motion to proceed, 40-59. (*Congressional Record*, daily ed., vol. 156, pp. S7673-S7693; *Senate Journal*, p. 747.) Pursuant to the consent agreement, the Senate subsequently took no further action on the disapproval resolution.

S. 1726, 112th Congress. On October 19, 2011, the minority leader moved to proceed to consider S. 1726, to repeal a requirement for tax withholding on payments to government contractors. The minority leader had introduced the bill two days earlier and had it placed directly on the Calendar. After immediately moving for cloture on his motion to proceed, the minority leader withdrew the motion to proceed. (*Congressional Record*, vol. 157, p. S6753; *Senate Journal*, p. 748.) On the following day, the Senate rejected cloture on the motion to proceed, 57-43. (*Congressional Record*, vol. 157, p. S6840; *Senate Journal*, p. 753.) Thereafter, no further action occurred on the measure.

S. 1786, 112th Congress. On November 3, 2011, pursuant to a unanimous consent order of the previous day, the minority leader moved to proceed to consider S. 1786, a transportation and infrastructure jobs bill. The consent agreement provided for concurrent consideration of this motion to proceed and one by the majority leader to consider S. 1769, addressing similar subjects, and required 60 votes to approve either motion. Both bills had been introduced within the previous few days and placed directly on the Calendar, S. 1769 by a majority party Senator and S. 1786 by a minority party Senator. After the Senate rejected the motion to consider S. 1769, the motion to consider S. 1786 also failed when the Senate rejected it, 47-53. (*Congressional Record*, vol. 157, p. S7095-S7113; *Senate Journal*, p. 782-783.) No further action occurred on either bill.

S.J.Res. 6, 112th Congress. On November 9, 2011, under the terms of a November 3 unanimous consent agreement, the Senate minority leader moved to proceed to consider S.J.Res. 6, to disapprove “net neutrality” rules from the Federal Communications Commission barring Internet service providers from discriminating against competing content. (*Congressional Record*, daily ed., vol. 157, p. S7239; *Senate Journal*, p. 806.) The joint resolution was a disapproval resolution under the CRA, and the committee of jurisdiction had previously been discharged from its consideration pursuant to the expedited procedures of the act. Under the act, the motion to proceed was not debatable, but the consent agreement under which the motion was made provided for four hours of debate. After this debate, the Senate defeated the motion to proceed, 46-52, and took no further action on the disapproval resolution.

S.J.Res. 27, 112th Congress. On November 10, 2011, pursuant to a unanimous consent agreement reached on November 3, the Senate minority leader moved to proceed to consider S.J.Res. 27, to disapprove an Environmental Protection Agency rule designed to reduce interstate air pollution caused by emissions of sulfur dioxide and nitrogen oxide. (*Congressional Record*, daily ed., vol. 157, p. S7310; *Senate Journal*, p. 811.) This measure was a disapproval resolution under the CRA, and the committee of jurisdiction had previously been discharged from its consideration. Under the act, the motion to proceed was not debatable, but the consent agreement under which the motion was made provided for two hours of debate. Following this period of debate, the Senate defeated the motion to proceed, 41-56, and took no subsequent action on the disapproval resolution.

S. 1931, 112th Congress (two motions to proceed). On December 1, 2011, in accordance with a unanimous consent agreement reached earlier in the day, the minority leader was deemed to have moved to proceed to consider S. 1931, to extend payroll tax cuts for one year, offset with

reductions in and a pay freeze for the federal workforce. The consent agreement provided that a vote occur first on a motion (made on the previous day and withdrawn after a cloture motion was filed) to proceed to consider S. 1917, which would have extended the payroll tax cuts without full offsets. S. 1917, sponsored by Senators from the majority party, had been introduced on November 29, and S. 1931 had been introduced by a minority party Senator on November 30; each had been placed directly on the Calendar. The consent agreement provided that a cloture motion on the motion to proceed to S. 1917 be withdrawn, permitted brief debate on each motion to proceed, and required 60 votes to approve either motion. The Senate rejected both motions to proceed; on S. 1931, the vote was 20-78. (*Congressional Record*, vol. 158, pp. S8138-8139; *Senate Journal*, pp. 870-871.) On December 8, pursuant to a consent agreement with similar terms, but covering S. 1931 alone, the minority leader offered another motion to proceed to the bill, which the Senate again rejected, 22-76. (*Congressional Record*, vol. 158, p. S8445; *Senate Journal*, pp. 884-885.) Thereafter, no further action occurred on either bill.

S.Con.Res. 18, 112th Congress. On May 25, 2011, the Senate minority leader moved to proceed to consider S.Con.Res. 18, a concurrent resolution reflecting the President's proposed budget for FY2012. (*Congressional Record*, daily ed., vol. 157, p. S3332; *Senate Journal*, p. 370.) Pursuant to the expedited procedures of the CBA, the committee with jurisdiction over the resolution had previously been discharged from its consideration, and the motion to proceed was not debatable. The Senate rejected the motion to proceed the same day it was made, 0-97, and took no further action on the President's budget resolution.

S.Con.Res. 21, 112th Congress. On May 25, 2011, shortly after the Senate defeated S.Con.Res. 18, the Senate minority leader moved to proceed to consider S.Con.Res. 21, a resolution sponsored by another minority party Senator, setting forth a congressional budget for FY2012. (*Congressional Record*, daily ed., vol. 157, p. S3332; *Senate Journal*, p. 370.) As in the previous case, this resolution was subject to the expedited procedures of the CBA; the resolution had been discharged from the Senate Budget Committee and the motion to proceed to its consideration was not debatable. The Senate defeated the motion to proceed, 42-55, and no further action on the resolution was taken.

S.Con.Res. 20, 112th Congress. On May 25, 2011, following Senate action on the previous two concurrent resolutions, the Senate minority leader moved to proceed to consider S.Con.Res. 20, a resolution sponsored by a third minority party Senator, providing a congressional budget for FY2012. (*Congressional Record*, daily ed., vol. 157, p. S3332; *Senate Journal*, p. 370.) As before, this resolution came to the floor under expedited procedures of the CBA; the resolution had been discharged from the Senate Budget Committee and the motion to proceed to its consideration was not debatable. The motion to proceed was rejected, 7-90, and the Senate took no subsequent action on this resolution.

H.J.Res. 98, 112th Congress. On January 26, 2012, the minority leader moved to proceed to consider H.J.Res. 98, to disapprove presidential action to raise the debt limit pursuant to the Budget Control Act (P.L. 112-25). This resolution of disapproval was subject to expedited procedures under Section 301(a)(2) of the act (codified at 31 U.S.C. 3101A), pursuant to which it had been placed directly on the Calendar when received from the House, and under which the motion to proceed was not debatable. The Senate rejected the motion, 44-52, and no further action occurred on the joint resolution. (*Congressional Record*, vol. 158, pp. S83-S95.)

S.J.Res. 36, 112th Congress. On April 23, 2012, under the terms of a unanimous consent agreement reached on April 19, a minority party Senator designated by the minority leader moved

to proceed to consider S.J.Res. 36, to disapprove a National Labor Relations Board rule intended to expedite union elections by postponing lawsuits challenging voter eligibility until after the vote. (*Congressional Record*, daily ed., vol. 158, p. S2568.) Similarly to several previous cases, this measure was a resolution of disapproval considered under the expedited procedures of the CRA, pursuant to which the committee of jurisdiction had been discharged. Under the act, the motion to proceed was not debatable, but the consent agreement under which the motion to proceed was offered provided for four hours of debate, after which the Senate defeated the motion, 45-54, and took no additional action on the disapproval resolution.

S.J.Res. 37, 112th Congress. On June 20, 2012, in accordance with a unanimous consent agreement reached on June 18, the Senate minority leader moved to proceed to consider S.J.Res. 37, to disapprove an Environmental Protection Agency rule requiring coal-fired power plants to use “maximum available control technology” on mercury and other air toxins. (*Congressional Record*, daily ed., vol. 158, p. S4314.) This disapproval resolution was again subject to the expedited procedures of the CRA, pursuant to which the committee of jurisdiction had been discharged. Under the act, the motion to proceed was not debatable, but the consent agreement under which the motion to proceed was made provided for four hours of debate. After time expired, the Senate defeated the motion, 46-53, and took no further action on the disapproval resolution.

S. 16, 113th Congress. On February 27, 2013, on the basis of a February 14 consent agreement, the Senate minority leader moved to proceed to consider S. 16, a proposal to replace the sequestration of federal funding specified in the Budget Control Act (P.L. 112-25, 125 Stat. 240) with spending reductions in other areas of the budget. (*Congressional Record*, daily ed., vol. 159, p. S790.) The minority leader immediately filed cloture on the motion to proceed, and the cloture vote was held the following day by unanimous consent. On a 38-62 vote, cloture was not invoked and the motion to proceed was subsequently withdrawn. No further action was taken on S. 16. The sequestration of federal funds went ahead as scheduled under the terms of the Budget Control Act.

S.J.Res. 26, 113th Congress. On October 29, 2013, in accordance with a unanimous consent agreement reached the previous day, the Senate minority leader offered a motion to proceed to consider S.J.Res. 26, to disapprove of the President exercising his authority to raise the debt limit. (*Congressional Record*, daily ed., vol. 159, p. S7580.) This disapproval resolution was subject to expedited procedures established in the Continuing Appropriations Act of 2014 (P.L. 113-46, 127 Stat. 558). Under that act, the motion to proceed was not debatable, but the consent agreement reached on October 28 provided three hours of debate prior to the vote. Following this period of debate, the Senate defeated the motion on a 45-54 vote and took no additional action on the disapproval resolution.

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