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The Legislative Process on the Senate Floor: An Introduction

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Summary

The standing rules of the Senate promote deliberation by permitting Senators to debate most questions at length and by precluding a simple majority from ending debate when supporters are prepared to vote on a bill or other legislative question. This right of extended debate permits filibusters, which can be brought to an end if the Senate invokes cloture, usually by a vote of three-fifths of all Senators, typically 60. Even then, consideration can typically continue under cloture for as many as 30 additional hours. This possibility of filibusters encourages the Senate to seek consensus whenever possible and to conduct business under the terms of unanimous consent agreements that limit the time available for debate and structure any amending process.

Traditionally, to promote predictability and order, Senators also have granted certain procedural privileges to the majority leader. The majority leader enjoys priority in being recognized to speak and is generally the only Senator (other than one acting at his behest) able to successfully propose what bills and resolutions the Senate should consider. However, the scheduling of legislative business on the floor typically requires either successful unanimous consent negotiations, or instead, the successful use of a cloture process (and its associated super-majority vote threshold).

Thus, the legislative process on the Senate floor reflects a balance between the rights guaranteed to Senators under the standing rules and the willingness of Senators to forego exercising some of these rights in order to expedite the conduct of business.

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Introduction

The legislative process on the Senate floor is governed by a set of standing rules, a body of precedents created by rulings of presiding officers or by votes of the Senate, a variety of established and customary practices, and ad hoc arrangements that the Senate makes to meet specific parliamentary and political circumstances. A knowledge of the Senate's formal rules is not sufficient to understand Senate procedures, and Senate practices cannot be understood without knowing the rules to which the practices relate.

The essential characteristic of the Senate's rules, and the characteristic that most clearly distinguishes its procedures from those of the House of Representatives, is their emphasis on the rights and prerogatives of individual Senators. Like any legislative institution, the Senate is both a deliberative and a decision-making body; its procedures must embody some balance between the opportunity to deliberate and the need to decide. The Senate's rules give greater weight to the value of full and free deliberation than they give to the value of expeditious decisions.

Put differently, in governing deliberations and decisionmaking, the rules of a legislative body always embody some balance between minority rights and majority prerogatives. The Senate's standing rules place greater emphasis on the rights of individual Senators—and, therefore, of minorities within the Senate—than on the powers of a majority. Precisely because of this emphasis, the Senate cannot rely exclusively on its rules. If all Senators took full advantage of their rights under the rules whenever it might be in their immediate interests, the Senate would have great difficulty reaching timely decisions.

Therefore, the Senate has developed a variety of practices by which Senators set aside some of their prerogatives under the rules to expedite the conduct of its business while accommodating Senators' needs and interests. Some of these practices have become well-established by precedent; others are arranged to suit the particular circumstances the Senate confronts from day to day and from issue to issue. In most cases, these alternative arrangements require the unanimous consent of the Senate—the explicit or implicit concurrence of each of the 100 Senators. The Senate relies on unanimous consent agreements every day for many purposes—purposes great and small, important and routine. However, Senators can protect their rights under Senate rules simply by objecting to a unanimous consent request to waive one or more of the rules.

Generally, the Senate can act more efficiently and expeditiously when Senators agree by unanimous consent to operate outside of its standing rules. Senators may insist that the rules be enforced strictly, but compromise and accommodation commonly prevail. Senators frequently exercise self-restraint by not taking full advantage of their rights and opportunities under the standing rules, and often by agreeing to unanimous consent requests for arrangements that may not promote their immediate individual legislative interests. The standing rules remain available, however, for Senators to invoke when, in their judgment, the costs of compromise and accommodation become too great.

Thus, the legislative procedures on the Senate floor reflect a balance—and sometimes an uneasy balance—between the operation of its rules and the principles they embody, on the one hand, and pragmatic arrangements to expedite the conduct of business, on the other. The interplay between the principles of the Senate's standing rules and the pragmatism of its daily practices will be a theme running throughout the following sections of this report. (Note that Senate procedures in relation to executive business—that is, nominations and treaties—are not covered in any detail in this report.)

The Right to Debate

Paragraph 1(a) of Rule XIX, which governs debate, is arguably the most consequential standing rule shaping what does and does not occur on the Senate floor:

> When a Senator desires to speak, he shall rise and address the Presiding Officer, and shall not proceed until he is recognized, and *the Presiding Officer shall recognize the Senator who shall first address him*. No Senator shall interrupt another Senator in debate without his consent, and to obtain such consent he shall first address the Presiding Officer, and no Senator shall speak more than twice upon any one question in debate on the same legislative day without leave of the Senate, which shall be determined without debate. (Emphasis added.)

The presiding officer of the Senate (unlike the Speaker of the House) has no authority to use the power to recognize only certain Senators in order to control the flow of business. If no Senator holds the floor, any Senator seeking recognition has a right to be recognized. Moreover, a Senator who has been recognized may make any motion that Senate rules permit, including motions affecting what bills the Senate will consider (though a Senator loses the floor after making a motion, offering an amendment, or taking one of many other actions).

In practice, the Senate has modified the effect of this rule by precedent and custom. By precedent, if the leader and another Senator are seeking recognition at the same time, the majority leader (or, next, the minority leader) is recognized first. In addition, by custom, the majority leader (or another Senator acting at his behest) typically makes the motions or requests that affect when the Senate will meet and what legislation it will consider.

In these respects, Senators routinely relinquish their equal right to recognition and their right to make certain motions, and they do so in order to lend some order and predictability to the Senate's proceedings. Otherwise, it would be nearly impossible for any Senator to predict with assurance when the Senate will be in session and what legislation it will consider.

Even more important is what paragraph 1(a) of Rule XIX says and does not say about the length of debate. The rule imposes a limit of two speeches per Senator per question per legislative day (though Senators rarely insist on imposing this limit on their colleagues). Beyond this restriction, it imposes no limit at all on the number of Senators who may make those two speeches or on the length of the speeches. In fact, there are few Senate rules that limit the right to debate, and no rules that permit a simple majority of the Senate to end a debate whenever it is ready to vote for a bill, amendment, or most other legislative questions being considered. When Senators are recognized by the presiding officer, the rules normally permit them to speak for as long as they wish, and questions generally cannot be put to a vote so long as there are Senators who still wish to make the speeches they are permitted to make under Rule XIX.

The House of Representatives may bring a question to a vote if a simple majority agrees to a motion to order the previous question. When meeting in Committee of the Whole, a majority of Representatives also can move to close debate on a pending amendment or sometimes on a bill and all amendments to it. No such motions are possible in the Senate. As a result, a numerical majority of Senators do not have nearly the same control over the pace and timing of their legislative deliberations as does a majority of the House.

Filibusters and Cloture

The dearth of debate limitations in Senate rules creates the possibility of filibusters. Individual Senators or minority groups of Senators who oppose a bill or amendment may speak against it at

great length (or threaten to) in the hope of changing their colleagues' minds, winning support for amendments that address their objections, or convincing the Senate to withdraw the bill or amendment from further consideration on the floor (or indeed, to forgo floor consideration entirely). Opposing Senators also can delay final floor action by offering numerous amendments and motions, by demanding roll call votes on amendments and motions, and by taking a variety of other actions.

The only formal process that Senate rules provide for breaking filibusters is to invoke cloture under the provisions of Rule XXII, paragraph 2 (commonly called the "cloture rule"). Under the rule, however, once cloture is filed on a pending question, the cloture vote cannot occur until after a further period of time (typically two days of Senate session); further, a simple majority of the Senate is insufficient to invoke cloture on legislative questions.

Cloture on most questions requires the support of three-fifths of Senators duly chosen and sworn, that is, a minimum of 60 votes if there is no more than one vacancy. For this reason alone, cloture can be difficult to invoke and, in the modern context, requires some bipartisan support. (If the matter being considered changes the standing rules, cloture requires a vote of two-thirds of the Senators present and voting. Pursuant to precedents set in 2013 and 2017, cloture can be invoked by a simple majority on any nomination.)

Even if the Senate does invoke cloture on, for example, a bill, the result is not an immediate vote on passing the bill. The cloture rule permits a maximum of 30 additional hours for considering the bill, during which each Senator may speak for one hour. The time consumed by rollcall votes and quorum calls is deducted from the 30-hour total. Each Senator does not have an opportunity to speak for a full hour, although each Senator is guaranteed at least 10 minutes for debate. Thus, cloture does not stop consideration immediately; it only ensures that consideration cannot continue indefinitely. Even the additional 30 hours allowed on a bill under cloture is quite a long time for the Senate to devote to any one bill.

Any Senator can filibuster almost any legislative proposal that the Senate is considering. The only bills that cannot be filibustered are certain specific types of measures that are considered under provisions of law that limit the time available for debating them. For example, Section 305(b)(1) of the Budget Act of 1974 restricts debate on a budget resolution, "and all amendments thereto and debatable motions and appeals in connection therewith," to not more than 50 hours. (Other examples of statues that provide for some limit on debate or consideration of certain measures include the Congressional Review Act, the National Emergencies Act, and the War Powers Resolution.) In situations where no such provision applies, Senators can prevent a vote by prolonging the debate indefinitely on any bill or amendment (or nomination or treaty), as well as on many motions, subject only to a successful cloture process.

The possibility of filibusters affects much of what happens on the Senate floor. Many of the ways in which the Senate agrees to set aside its standing rules are designed in response to the possibility of filibusters. Simply threatening to filibuster can give Senators great influence over whether the Senate considers a bill, when it considers it, and how it may be amended.

Scheduling Legislative Business

The legislative process is laborious and time-consuming, and the time available for Senate floor action each year is limited. Every day devoted to one bill is a day denied for consideration of other legislation, and there are not enough days to act on all the bills that Senators and Senate committees wish to see enacted. Naturally, the time pressures become even greater with the approach of deadlines such as the date for adjournment or the end of the fiscal year. So, the threat

of a filibuster can provide significant leverage to Senators for even the most consequential bills and potentially prevent any consideration of legislation narrower in scope. Before a bill reaches the floor or while it is being debated, its supporters often seek ways to accommodate the concerns of opponents, preferring an amended bill that can be passed without protracted debate to the time, effort, and risks involved in confronting a filibuster or the threat of one.

The Senate Hotline and the Unanimous Consent Process for Approving Legislation

The right of extended debate, and the time required for a cloture process, encourages Senate committee and party leaders to bring up bills and approve them by unanimous consent whenever possible. Senate approval of bills and resolutions by unanimous consent is an action that does not involve a vote. Instead, when a Senator proposes a unanimous consent agreement on the floor, the Senate's presiding officer asks if anyone objects. If, at that moment, no Senator states, "I object," the action occurs.

Because the unanimous consent process for approving legislation is so common, the Senate has developed informal methods for negotiating agreement among all Senators. Both the majority and minority party cloakrooms operate a group alert system consisting primarily of email messages. This communication system is colloquially known as the "hotline." Many refer to the process of seeking unanimous consent for floor consideration of a bill as "hotlining."

The hotline process itself does not cause any formal action to occur on the bill. If a bill has cleared the hotline—meaning no Senator has indicated to either cloakroom that they would object—the Senate must still take up and approve the bill on the floor. This step is usually completed in mere minutes, as the terms of the unanimous consent request are spoken aloud on the floor followed by the presiding officer noting the absence of an objection raised at that time.

Senators prefer to expedite the conduct of legislative business whenever possible, and so routinely cooperate in reaching such agreements to approve legislation by unanimous consent. If Senators withhold their consent, they are implicitly threatening extended debate on the bill. Senators may do so because they oppose that bill, because they are intent on offering amendments or guaranteeing themselves time for debate, or because they wish to delay consideration of one measure in the hope of influencing the fate of some other, possibly unrelated, measure.

Any Senator who is dissatisfied with hotlined legislation, or the terms for its approval by unanimous consent, has only to signal disapproval. Such communications from Senators to leadership that they would object to approval of a bill by unanimous consent are often referred to as "holds." So long as any one Senator objects to the proposed agreement, the standing rules—and their provisions for taking up and approving legislation—remain in force with all the rights and opportunities they provide to each Senator.

The Motion to Proceed and Cloture

The possibility of extended debate affects how the Senate determines its legislative agenda—that is, the order in which it decides to consider bills and other business on the floor. When a Senate standing committee reports a bill to the Senate for potential floor debate and passage, the bill is placed on the Senate's *Calendar of Business* (under the heading of "General Orders").

The Senate gives its majority leader the primary responsibility for proposing which bills on the calendar should come to the floor for action. The majority leader's right to preferential recognition already has been mentioned, as has Senators' general willingness to relinquish to the

floor leader the right to make the motion for deciding the order of legislative business—namely, the motion that the Senate proceed to the consideration of a particular bill.

The bill in question is only brought to the floor if the Senate agrees to the motion to proceed (MTP). Under the Senate's standing rules, the motion to proceed to a bill usually has no debate limit, and, therefore, is subject to a filibuster. In other words, even before the bill can reach the floor, there could be extended debate on the question of whether the Senate should even consider the bill at all. (Note that the question of proceeding to certain matters—for example, to a conference report, or to executive session to take up and consider a nomination on the *Executive Calendar*, or to a House amendment—is not debatable, and thus not subject to a filibuster, though final disposition of the matter itself is.)

Therefore, when the majority leader proposes that the Senate proceed to consider legislation, the leader also almost always immediately files cloture on that motion to proceed. This cloture motion asks the Senate to bring debate to a close on the question of taking up the bill. As discussed previously, the vote on cloture will occur two days of session later and requires the support of three-fifths of the Senate—that is, 60 Senators if there is no more than one vacancy. If successful, cloture will limit further consideration of the motion to proceed to the bill to a maximum of 30 additional hours.

Confronted with two bills for which there is not unanimous consent, one of which can be brought up with the support of 60 Senators and the other of which cannot, the majority leader is naturally inclined to ask the Senate to take up the bill that can be considered with a successful cloture process on the motion to proceed. Time is limited, and the majority leader prefers to use that time with reasonable efficiency. Thus, the possibility of extended debate affects decisions for scheduling legislation in two ways: by discouraging the majority leader and the Senate from attempting to take up bills before there is bipartisan support for cloture on the motion to proceed, and by encouraging negotiations over substantive changes in the bills in order to build that bipartisan coalition.

Committee Referral and the Rule XIV Route to the Calendar

The motion to proceed can only be directed toward legislation that is on the Senate's *Calendar of Business*, and most legislation is placed on the calendar as a result of being reported by committee. The Senate's standing committees play an essential part in the legislative process. Committees select the small percentage of the bills introduced each Congress that, in their judgment, deserve the attention of the Senate as a whole, and they often recommend amendments to these bills based on their expert knowledge and experience. Most bills are routinely referred to the committee with appropriate jurisdiction as soon as they are introduced (or received from the House). However, paragraph 4 of Rule XIV permits a Senator to bypass a committee referral and have the bill placed directly on the *Calendar of Business*, with exactly the same formal status the bill would have if it had been considered and reported by a Senate committee.

By the same token, if a committee fails to act on a bill that was referred to it, while this may mean the bill will die for lack of action, the proposal(s) embodied may not. The sponsor of the bill may introduce a new bill with similar provisions as the original proposal, and then have the new bill placed directly on the calendar under the Rule XIV process. However, taking the bill off the calendar and considering it on the floor (via unanimous consent or a motion to proceed) remains a question the Senate expects the majority leader to propose; thus, a Senator who uses Rule XIV to bypass a committee is not in a position to ensure the bill's movement to the floor. In recent practice, the majority leader most frequently uses this Rule XIV method to put a measure directly on the calendar—often to expedite consideration of a complicated or high-profile bill that has

been drafted outside of the committee process or in relation to a legislative vehicle that closely resembles another bill already considered in committee.

The Amending Process

The amending process is at the heart of the Senate's floor deliberations. If the Senate reaches a final vote on passage of a bill, the bill is very likely to pass. It is through the amending process that Senators have an opportunity to influence the content of the bill before the vote on final passage occurs; this is an especially important opportunity for Senators who do not serve on the committee that marked up the bill and reported it.

After the majority leader has proposed that the Senate take up a bill, statements usually are made by the two floor managers—the chair and ranking minority member of the committee with jurisdiction over the bill—and often by other Senators as well. These statements lay the groundwork for the debate that follows, describing the purposes and provisions of the bill, the state of current law and the developments that make new legislation desirable or necessary, and any major points of controversy.

The bill is open to amendment as soon as it is before the Senate (which, in modern practice, is usually after the Senate agrees to a motion to proceed on which a successful cloture process occurred). The first amendments to be considered are any recommended by the committee reporting the bill, as so designated in the printed version of the bill "as reported." In current practice, this committee amendment is usually a full-text substitute amendment (an "amendment in the nature of a substitute" [ANS]).

It is also common that a party or committee leader offers, on the floor, an ANS at the outset of consideration. This may occur for a number of reasons. For example, it may happen when the Senate takes up a House bill. Such an amendment may also be offered to replace a committee-reported ANS with a new ANS that reflects more recent negotiations over a measure's text. (In some situations, this new ANS is called a "manager's amendment" or "managers' package"; it consists of the text from multiple individual Senators' amendments that the bill managers wrap into one proposed amendment.)

As this committee amendment (or other ANS offered on the floor at the outset of consideration) is being debated, Senators may propose amendments to it and to the underlying bill. The Senate votes on any such amendments before it votes on the pending ANS amendment (potentially, as amended) itself.

The order in which amendments are offered is typically specified by any unanimous consent agreements in force, not on requirements imposed by standing rules or precedents. As a general rule, a Senator cannot propose an amendment to a bill while first-degree (and possibly second-degree) amendments to the bill are pending. In general, however, when the Senate considers multiple amendments to a pending bill, the process is governed by unanimous consent agreements that tailor the process, often in ways that may differ from what Senate rules would provide.

Non-Germane Amendments

Senate standing rules do not impose a general requirement that amendments offered by Senators on the floor must be germane or relevant to the bill being considered. The rules impose a germaneness requirement only on amendments to general appropriations, to budget resolutions and reconciliation bills, and to matters being considered after cloture has been invoked on the bill (or on a pending ANS). Various statutes also impose such a requirement on a limited number of

other bills. (The Senate generally interprets germaneness strictly, to preclude amendments that expand the scope of a bill or introduce a specific additional topic, for example.) In all other cases, the rules do not preclude Senators from proposing amendments to a bill under consideration by the Senate on whatever subjects they choose.

This possibility can make it extremely difficult to anticipate what will happen to a bill when it reaches the floor and how much of the Senate's time it will consume. The party leaders and the bill's floor managers may know what amendments on the subject of the bill are likely to be offered, but they cannot be certain that Senators will not seek to also offer non-germane (and potentially controversial) amendments.

In recent decades, majority leaders of the Senate have "filled the amendment tree"—that is, offered a series of amendments, one immediately after another, temporarily taking up available slots for pending amendments for the purpose of "freezing" the amendment process so that no other amendments can be offered (except by unanimous consent) at that time. This action prevents Senators from offering nongermane or controversial amendments while supporters of the bill negotiate an amending process by unanimous consent (and/or while a cloture process proceeds).

Unanimous Consent Agreements

Once the Senate takes up the bill, party and committee leaders often attempt to reach one or more agreements to process amendments and set a time for the Senate to vote on passage of the bill.

Negotiating these complex unanimous consent agreements can be a difficult and time-consuming process, the responsibility for which falls primarily on the majority and minority leaders and the leaders of the committee with jurisdiction over the bill at issue. They consult interested Senators, but it would be impractical to consult every Senator about every bill scheduled for floor action. For this reason, individual Senators and their staff take the initiative to protect their own interests by advising the leaders of their preferences and intentions. Negotiations sometimes take place on the floor and on the public record, but at least the preliminary discussions and consultations usually occur in meetings during quorum calls (discussed later) or off the floor. (The negotiation process may also be facilitated by use of the aforementioned "hotline" clearance process, the informal communication mechanism by which each party's leadership gauges the preferences of its conference members.)

Unanimous consent agreements may define the order in which Senators will offer their amendments, postpone roll call votes until a later time that is more convenient for Senators, or set a super-majority threshold for the adoption of a particular amendment or even for final passage of the bill. (Since the bill, and each amendment to it, could require a successful cloture process [and its associated supermajority vote threshold], setting a 60-vote threshold on such questions effectively reflects the requirements needed under Senate rules, while allowing the Senate to take votes more quickly than would occur under those rules.)

The following example illustrates several contemporary features of such a unanimous consent agreement affecting the amendment process:

> Mr. SCHUMER. Mr. President, I ask unanimous consent that it be in order to call up the following amendments to S. 2226: Rubio, No. 523; Young, No. 230; Daines, No. 1084; further, that with respect to the amendments listed above, the Senate vote on the amendments in the order listed, with no further amendments or motions in order, and with 60 affirmative votes required for adoption and that there be 2 minutes equally divided prior to each vote; further, that upon disposition of the Daines amendment, that it be in order to send to the desk a managers' package of 47 amendments, and after the clerk reports it, I

> ask that the clerk also read the numbers and sponsors of each of the individual amendments in this package and that they be the only amendments remaining in order to be offered to S. 2226; that the Senate vote on the amendment with no intervening action or debate; that upon disposition of the managers' amendments, the cloture motions filed during Wednesday's session ripen and the Senate vote on the motion to invoke cloture on the substitute amendment No. 935, as amended; further, that if cloture is invoked, all postcloture time be considered expired, the Schumer amendment No. 936 be withdrawn, and the Senate vote on the substitute amendment, as amended, with no intervening action or debate; further, that if the substitute amendment is agreed to, the cloture motion with respect to the underlying bill, S. 2226, be withdrawn, the bill, as amended, be considered read a third time, and the Senate vote on passage of the bill, as amended, with 60 affirmative votes required for passage; that the motion to reconsider be considered made and laid upon the table, with up to 10 minutes for debate, equally divided, prior to the vote on passage; finally, that upon disposition of S. 2226, the Senate immediately proceed to the consideration of H.R. 2670, which was received from the House and is at the desk; that all after the enacting clause be stricken, the text of the Senate bill, as passed, be inserted; H.R. 2670, as amended, be considered read a third time and passed, the Senate bill then be indefinitely postponed, and the motion to reconsider be considered made and laid upon the table with no intervening action or debate. (*Congressional Record*, vol. 169, July 27, 2023, daily edition, pp. S3725-3726.)

This unanimous consent agreement shares two essential features with others that are common in current practice. First, there is a prohibition on any amendments (or motions) not listed in the agreement. Second, the agreement specifies limitations on the time available for debating each amendment; the agreement then sets up actions that result in a final passage vote. In relation to time spent on the bill, the agreement effectively alters the amount of time the Senate, under the rules, could have spent using cloture. The amount of time the Senate would need to reach a vote under the requirements of the cloture process is a key component of negotiations over a bill's consideration, including amending. The pursuit of unanimous consent to shorten the cloture process represents a point of significant leverage for Senators during negotiations.

The Daily Order of Business

The extent to which the Senate uses unanimous consent arrangements to supplement or supplant operation of its standing rules makes it difficult to predict with confidence what will actually take place on the Senate floor each day. This report already has mentioned some of the problems that can arise in scheduling legislation and in anticipating the time that will be consumed (and the amendments that Senators may seek to offer) during consideration of each bill. In addition, the other proceedings that occur each day also depend on whether the Senate decides to operate under or outside of its rules.

The time at which the Senate convenes each day is set by a resolution the Senate adopts at the beginning of each Congress, but that time is almost always changed from day to day by unanimous consent—at the request of the majority leader—to suit changing circumstances. When the Senate does convene, and after the opening prayer and the Pledge of Allegiance, a brief period of "leader time" is set aside for the majority leader and for the minority leader, under a standing order also established at the beginning of the Congress. During this time, the two party leaders may discuss the legislative schedule as well as their views on policy issues, and they also may conduct non-controversial business by unanimous consent.

What happens thereafter depends on whether the Senate is beginning a new legislative day. A legislative day begins when the Senate convenes after agreeing to a motion to adjourn, and it continues until the next adjournment. When the Senate instead recesses at the end of a day, as it

occasionally does, a legislative day continues into the next calendar day. Standing Rules VII and VIII prescribe what the Senate should do at the beginning of each new legislative day, and one of the reasons the Senate may recess from day to day is to set aside the requirements imposed by these rules.

If the Senate were to convene and proceed as contemplated by Rules VII and VIII, the first two hours of session on a new legislative day would be the "morning hour." This is a period for conducting routine business at a predictable time each day that does not interfere with the consideration of major legislation. The morning hour is to begin with the transaction of "morning business," which includes the introduction of bills and joint resolutions and the submission of Senate and concurrent resolutions and committee reports. During the remainder of the morning hour, the Senate could act on bills on the *Calendar of Business*. At the end of the morning hour, the Senate would resume consideration of the unfinished business—whatever bill, if any, was the pending business when the Senate adjourned.

In current practice, however, the Senate typically adjourns day to day, but, by unanimous consent, deems the morning hour to have expired upon reconvening; alternatively, occasionally the Senate recesses at the end of the day. In either case, there is no morning hour on the following day of session. Instead, the majority leader often arranges, by unanimous consent, that "a period for transacting routine morning business" follow "leader time." Senators make brief statements on whatever subjects they like during this period, the length of which can change from day to day, depending on the legislative schedule. Also, by unanimous consent, there may be other periods for transacting morning business during the course of the day when time is available for Senators to speak on subjects unrelated to the pending bill.

After the morning hour or the period (set by unanimous consent) for transacting routine morning business, the Senate normally resumes consideration of the bill that is either the unfinished business (if the Senate had adjourned on the preceding day) or the pending business (if the Senate had recessed instead). However, this bill may be set aside—temporarily or indefinitely—in favor of other legislative or executive business if the Senate agrees to motions or unanimous consent requests made for that purpose. Before the end of the day, the majority leader also makes arrangements for the following day—establishing a meeting time by unanimous consent and commenting on the expected legislative program.

Quorum Calls and Rollcall Votes

The Constitution requires that a quorum—that is, a majority of all Senators—be present to conduct business on the floor. Even though Senators have many responsibilities that frequently keep them from the floor, the Senate presumes that a quorum is present unless a quorum call demonstrates that it is not.

A Senator who has been recognized may suggest the absence of a quorum at almost any time; a clerk then begins to call the roll of Senators. Senators may not debate or conduct business while a quorum call is in progress. If a majority of Senators do not appear and respond to their names, the Senate can only adjourn, recess, or attempt to secure the attendance of additional Senators. However, quorum calls usually are ended by unanimous consent before the clerk completes the call of the roll and the absence of a quorum is demonstrated. The reason is that most quorum calls are not really intended to determine whether a quorum is present.

The purpose of a quorum call usually is to suspend floor activity temporarily. If a Senator is coming to the floor to speak, a colleague may suggest the absence of a quorum until the expected Senator arrives. If the Senate finds itself confronted with unexpected procedural complications, if

the majority leader needs to meet with several Senators on the floor about a possible unanimous consent agreement, or if the floor manager of a bill wants to discuss a compromise alternative to an amendment another Senator has offered—for any of these or many other reasons—a Senator may suggest the absence of a quorum to permit time for informal consultations. The time consumed by many of these quorum calls permits intensive and productive discussions that would be far more difficult to hold under the rules of formal Senate debate.

The Constitution also provides that one-fifth of the Senators on the floor can demand a rollcall vote. Since the Senate assumes a quorum is present, and the smallest possible quorum is 51 Senators, the support of at least 11 Senators is required to order a rollcall vote. A Senator who has been recognized can ask for "the yeas and nays" at any time that the Senate is considering a motion, amendment, bill, or other question. Agreement to this request does not terminate debate or cause a vote to occur. Instead, if a rollcall is ordered pursuant to this request, then that is how the Senate will vote on the question when (or if) the time for the vote arrives. Thus, the Senate may order a rollcall vote on an amendment as soon as it is offered, but the vote itself may not take place until much later (or, potentially, not at all), when Senators no longer wish to debate the amendment (or instead if a cloture process forces a vote).

The alternative to a rollcall vote usually is a voice vote in which the Senators in favor of the question vote "aye" in unison, followed by those opposed voting "no." (Sometimes in relation to a voice vote—when the outcome of the vote is not in question—the presiding officer will note that "without objection, the amendment [or bill] is agreed to.") Although a voice vote does not create a public record of how each Senator voted, it is an equally valid and conclusive way for the Senate to reach a decision.

Sources of Additional Information

The standing rules of the Senate are published periodically in a separate Senate document and in the *Senate Manual*, which contains other related documents as well. The most recent compilation of the Senate's precedents is *Riddick's Senate Procedure*, prepared by Floyd M. Riddick and Alan S. Frumin (Senate Document No. 101-28; 101st Congress, second session, also available at https://riddick.gpo.gov/). Senators and their staff may access, via Webster (which is not available to the public), the *Electronic Senate Precedents*, a catalog of recent precedents compiled by the Office of the Parliamentarian. The *Senate Manual* also contains a section entitled "Select Legislative Procedures Enacted in Law Applying to the United States Senate."

The Parliamentarian and her assistants field inquiries from congressional offices about Senate procedures and offer expert assistance compatible with their other responsibilities. The Congressional Research Service has prepared numerous other reports on the Senate and its procedures, including

- CRS Report RL30788, *Parliamentary Reference Sources: Senate*;
- CRS Report R48298, *The Committee Markup Process in the Senate*, by Michael Greene;
- CRS Report 98-836, *Calling Up Business on the Senate Floor*, by Christopher M. Davis;
- CRS Report R43563, *"Holds" in the Senate*, by Mark J. Oleszek;
- CRS Report RL30360, *Filibusters and Cloture in the Senate*, by Valerie Heitshusen;

- CRS Report 98-853, *The Amending Process in the Senate*, by Christopher M. Davis;
- CRS Report 98-306, *Points of Order, Rulings, and Appeals in the Senate*, by Valerie Heitshusen;
- CRS Report 96-452, *Voting and Quorum Procedures in the Senate*, coordinated by Elizabeth Rybicki; and
- CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki.

A large number of additional reports on specific topics related to Senate procedure are also available (categorized by subject area) at https://www.crs.gov/iap/legislative-and-budget-process. Senate procedures in specific relation to executive business—that is, nominations and treaties—are not covered in this report, but CRS has prepared additional reports on these topics, as well; for an overview, see CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki and Michael Greene and CRS Report 98-384, *Senate Consideration of Treaties*, by Valerie Heitshusen.

CRS analysts with expertise in legislative procedure are available to consult with individual Senators and staff; they also present periodic staff seminars and institutes on legislative procedures.

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