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Senate Legislative Process

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[Overview: The Legislative Framework in the Senate](#)

Origin of the Senate: The Great Compromise

On July 16, 1787, the fifty-five Founding Fathers meeting in Philadelphia reached what is commonly called the "Great Compromise." The compromise emerged from the struggle between the large states and the small states over the apportionment of seats in the Congress. The Framers easily accepted by principle of bicameralism—a two-house national legislature—but disagreed strongly over how each chamber would be constituted. This was the most contentious issue at the Constitutional Convention and nearly led to its dissolution. The large states favored the "nationalist" principle of popularly-based representation, but the smaller states insisted on a "federal" principle ensuring representation by states. The smaller states feared that if representation was based on population, the larger states would quickly dominate the new Congress.

In the end, the Framers reached an agreement: House seats would be apportioned among the states based on population and Representatives would be directly elected by the people; the Senate would be composed of two Senators per state—regardless of size or population—indirectly elected by the state legislature. As James Madison wrote in Federalist No. 39, "The House of Representatives will derive its powers from the people of America.... The Senate, on the other hand, will derive its powers from the States, as political and co-equal societies; and these will be represented on the principle of equality in the Senate." The principle of two Senators from each state was further guaranteed by Article V of the Constitution: "no State, without its Consent, shall be deprived of equal Suffrage in the Senate."

Decisions made at the Constitutional Convention about the Senate still shape its organization and operation today, and make it unique among national legislative institutions. William E. Gladstone, four-time British Prime Minister during the 19th century, said the United States Senate, is a "remarkable body, the most remarkable of all the inventions of modern politics." Plainly, the Framers did not want the Senate to be another House of Representatives, and

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the institutional uniqueness of the upper house flows directly from the decisions they made at the Constitutional Convention.

Several of those constitutional decisions led to important and enduring features of the Senate and its legislative process. These features include constituency, size, term of office, and special prerogatives.

Constituency

The one state - two Senator formula means that all Senators represent constituencies that are more heterogeneous than the districts represented by most House members. As a result, Senators must accommodate a larger range of interests and pressures in their representational roles. Further, because each Senator has an equal vote regardless of his or her state's population, the Senate remains a oddly apportioned institution: Senators from the twenty-six smallest states, who (according to the 2000 census) represent 17.8% of the nation's population, constitute a majority of the Senate—a reality which has aroused little public interest or concern.

The Framers, of course, could not have foreseen the country's population increases, migratory patterns, or huge disparities in state sizes. While Members from small and large states all have comparable committee and floor responsibilities, few are likely to deny that Senators from the more populous states, such as California, face a broader array of representational pressures than lawmakers from the smaller states, such as Wyoming. An indirect effect of Senate apportionment, some scholars contend, is that contemporary floor leaders of either party are likely to come from smaller rather than larger states because they can better accommodate the additional leadership workload.

Size

The one state - two Senator formula also meant that from the outset the Senate's membership was relatively small compared to the House. When it first convened it March 1789, there were twenty-two Senators (North Carolina and Rhode Island soon entered the Union to increase the number to twenty-six). As new states entered the Union, the Senate's size expanded to the 100 that it is today.

The Senate's relatively small size has significantly shaped how it works. In the smaller and more intimate Senate, vigorous leadership has been the exception rather than the rule. The relative informality of Senate procedures testifies to the looser reins of leadership. Significantly, there is large deference to minority views and all Senators typically have ample opportunities to be heard on the issues of the day. Compared with the House's complex rules and voluminous precedents, the Senate's rules are brief and often set aside. Informal negotiations among Senators interested in a given measure are commonplace. Although too large for its members to draw their chairs around the fireplace on a chilly winter morning—as they did in the early years—the Senate today retains a clubby atmosphere that the House lacks.

Term of Office, Qualifications, and Selection

A key goal of the Framers was to create a Senate differently constituted from the House so it would be less subject to popular passions and impulses. "The use of the Senate," wrote James Madison in Notes of Debates in the Federal Convention of 1787, "is to consist in its proceedings with more coolness, with

more system and with more wisdom, than the popular branch." An oft-quoted story about the "coolness" of the Senate involves George Washington and Thomas Jefferson, who was in France during the Constitutional Convention. Upon his return, Jefferson visited Washington and asked why the Convention delegates had created a Senate. "Why did you pour that coffee into your saucer?" asked Washington. "To cool it," said Jefferson. "Even so," responded Washington, "we pour legislation into the senatorial saucer to cool it."

To foster values such as deliberation, reflection, continuity, and stability in the Senate, the Framers made several important decisions. First, they set the senatorial term of office at six years even though the duration of a Congress is two years. The Senate, in brief, was to be a "continuing body" with one-third of its membership up for election at any one time. As Article I, section 3, states: "Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes." Second, to be a Senator, individuals had to meet different qualifications compared to service in the House of Representatives. To hold office, Senators have to be at least 30 years of age and nine years a citizen; House members are to be 25 years and seven years a citizen. Senators, in brief, were to be more seasoned and experienced than representatives. Finally, the indirect election of Senators by state legislatures would serve to check precipitous decisions which might emanate from the directly elected House and buttress the states' role as a counterweight to the national government.

Direct election of Senators came with the Seventeenth Amendment, ratified in 1913. A byproduct of the Progressive movement, it was designed to end corruption in state legislatures (involving the purchase of Senate seats), blunt the power of party machine bosses and corporations, prevent deadlocks in the election of Senators, and make Senators directly answerable to the people for their actions and decisions.

Special Prerogatives

Although the House and Senate share all lawmaking authority, including overriding presidential vetoes, the Framers assigned special prerogatives to the Senate. Under the Constitution's "advice and consent" provisions (Article II, section 2), only the Senate considers the ratification of treaties (which requires a two-thirds vote) and presidential appointments for such positions as federal judgeships, ambassadorships, or Cabinet offices (all of which require a majority vote for approval). The Framers entrusted "advice and consent" duties exclusively to the Senate in part because they expected these matters to be handled in a thoughtful and responsible manner. The qualities they embedded in a continuing body—stability, experience, and a longer perspective—were valuable in handling issues involving national security and international relations. The Senate's role in the appointments process, wrote Alexander Hamilton in Federalist No. 76, would serve as "an excellent check upon the spirit of favoritism in the President, and would tend greatly to preventing the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity."

The Constitution (Article I, section 3) also grants the Senate the "sole Power to try all Impeachments." The House possesses the constitutional authority to decide by majority vote whether to impeach (or indict) executive or judicial officials while the Senate, by a two-thirds vote, determines whether to convict

and remove from office any impeached official. "Where else," wrote Alexander Hamilton in Federalist No. 65, "than in the Senate could have been found a tribunal sufficiently dignified, or sufficiently independent? What other body would be likely to feel confidence enough in its own situation, to preserve unawed and uninfluenced the necessary impartiality between an individual accused, and the representatives of the people, his accusers?" (Italics in original)

Understandably, the Senate's constitutional origins continue to shape its organization and operations. Three features in particular are noteworthy, because they contribute to making the Senate the unique institution that it is. They are extended debate, the lack of formal party leaders until the early 1900s, and the use of unanimous consent to conduct most of its business.

Extended Debate

All Senators have two traditional freedoms that, so far as is known, no other legislators worldwide possess. These two freedoms are unlimited debate and an unlimited opportunity to offer amendments, relevant or not, to legislation under consideration. The small size of the Senate permitted these traditional freedoms to emerge and flourish, subject to very few restrictions. Not until 1917 did the Senate adopt its first cloture rule (Rule XXII). Thus, from 1789 until 1917, there was no way for the Senate to terminate extended debates (called "filibusters" if employed for dilatory purposes) except by unanimous consent, compromise, or exhaustion.

Floor Leaders

Throughout the 19th century, many Senators were called "leaders" by their colleagues, commentators, scholars, or others. But no single Senator exercised central management of the legislative process in the manner of today's floor leader. As late as 1885, Woodrow Wilson could write in his classic study, *Congressional Government*, "No one is the Senator.... No one exercises the special trust of acknowledged leadership." (Italics in original) No doubt the small size of the early Senate and the tradition of viewing Members as "ambassadors" from sovereign states promoted an informal and personal style of senatorial leadership. Although the general scholarly consensus is that certain Senators began to function formally as party leaders in the early 1900s, the minutes of the respective party caucuses indicate that Democrats officially elected their "leader" in 1920; Republicans followed suit five years later. Floor leaders acquired procedural resources over time, such as their right of preferential recognition, that helped them to manage the Senate's work. However, their formal powers are limited and many floor leaders have said that their job is akin to "herding cats."

Unanimous Consent

From its beginning, the Senate has transacted much of its business by unanimous consent. The Senate's small size, few rules, and informality encouraged the rise of this practice. A single objection ("I object") blocks a unanimous consent request. Even several of the Senate's early rules incorporated unanimous consent provisions to speed the Senate's routine business.

Two types of unanimous consent are prevalent in today's Senate. Simple unanimous consent requests deal with noncontroversial matters, such as

Senators asking unanimous consent to dispense with the reading of amendments. Complex unanimous consent agreements establish a tailor-made procedure for considering virtually any kind of business that the Senate takes up. They are commonly brokered by the parties' floor leaders and managers. Two fundamental objectives of these accords are to limit debate and to structure the amendment process. As two Senate parliamentarians wrote in the Senate's volume of precedents: "Whereas Senate Rules permit virtually unlimited debate, and very few restrictions on the right to offer amendments, these [unanimous consent] agreements usually limit debate and the right of Senators to offer amendments."

Summary

If the Founding Fathers visited the modern Senate, they would find that most of their fundamental principles continue to guide its legislative process. The direct election of Senators is probably the most significant constitutional change to their handiwork. On the other hand, the "changing Senate" might surprise some of the Framers. Senators, for example, typically attract large media attention, especially compared to most House members. One result is that the Senate has been an "incubator" for presidential contenders. The practice of "holds" (requests by Senators to party leaders to delay floor consideration of legislation or nominations), which is nowhere recognized in Senate rules or precedents and about which little is known with respect to its origins, has become a prominent feature of today's Senate. Despite these and many other developments, the Senate remains the preeminent legislative forum for protecting political minorities and debating and refining the great issues of the day.

Committee Organization and Procedure

Committees in the Senate have the power to conduct hearings and investigations, to draft bills and resolutions (and amendments to them), to report legislation to the Senate for its possible consideration, and to conduct oversight of the executive branch. Senate committees also have the power to originate legislation. Additionally, Senate committees consider treaties and nominations in the course of the Senate's exercise of its constitutional authority of "advice and consent."

Committee Organization

Committee Assignments. Committee assignments serve an important purpose in each Senator's pursuit of legislative, representational, and other goals. They are also important to party leaders who organize and shape the composition of the committees. Senate rules prescribe the size of each committee. Committee party ratios generally reflect party strength in the chamber. Adjustments to committee size and ratio often result from interparty negotiations before each Congress. Senate rules specify certain procedures for making committee assignments. The rules of the party conferences supplement the Senate rules, providing more specific criteria for making committee assignments.

Senate rules categorize standing and other committees for the purpose of distributing committee assignments to Senators. Essentially, each Senator is limited to service on two "A" committees, and on one "B" committee. Assignment to "C" committees is unrestricted. Party rules also restrict

Senators' service on so-called "Super A" committees. Additionally, these service rules may be waived individually or collectively, as the Senate (and its parties) think necessary.

Jurisdiction and Referral. Committee jurisdiction is determined by Senate rules, supplemented by formal agreements among committees and precedents established by prior referrals. Senate Rule XXV identifies the policy topics handled by each standing committee. The formal responsibility for referral rests with the presiding officer of the Senate, but in practice the Senate parliamentarian advises on bill referrals. Measures are generally referred to a single committee based on "the subject matter which predominates." By unanimous consent, the Senate permits multiple referrals, either joint or sequential, for measures that cross jurisdictional boundaries. Multiple referral may also be accomplished by motion of the joint party leaders, although it appears that this motion has never been used.

Subcommittees. A subcommittee is a subunit of a committee established for the purpose of dividing and managing a committee's work. Unlike the House, the Senate places no direct limits on the number of subcommittees that a committee may create, and there are no requirements to create any subcommittees.

However, both Senate and Republican Conference rules limit the number of subcommittee assignments per Senator. Under Senate Rule XXV, a Senator may sit on no more than three subcommittees on each of his class "A" committee assignments, and on no more than two subcommittees on a class "B" committee. A Senate standing order also encourages Senate committees to adopt rules for equitable assignment of Senators to subcommittees. Several committees have adopted such provisions, which prohibit a Senator's assignment to a second subcommittee until all committee members have chosen one assignment in the order of their seniority. As with full committee assignment limits, subcommittee assignment limits can be waived.

Committee Rules. As agents of the Senate, committees must comply with all applicable Senate directives. Most of these requirements appear in Senate Rule XXVI. Each Senate committee must adopt (and publish in the Congressional Record), written rules to govern its proceedings "not inconsistent with the Rules of the Senate." These committee rules generally dictate the procedures a committee follows in conducting its business. For example, committees must select a regular meeting day, which must be at least monthly, and determine appropriate quorums for various committee actions within the limits of Senate rules.

Committee Hearings

Committees use hearings to gather information for use in legislative, oversight and investigative activities, and to review the qualifications of presidential nominees. Regardless of the type of hearing, or whether a hearing is held in Washington or elsewhere, hearings share common aspects of planning and preparation. Senate standing committees and subcommittees are authorized to meet and to hold hearings when the Senate is in session, and when it has recessed or adjourned. To minimize conflicts with floor activities, a committee may not meet, without unanimous consent, on any day after the Senate has been in session for two hours, or after 2:00 p.m. when the Senate is in session.

Senate Rule XXVI requires each committee (except Appropriations and Budget) to give at least one week's notice of the date, place, and subject of a hearing; however, a committee may hold a hearing with less than one week's notice if it determines that there is "good cause." These notices appear in the Daily Digest section of the Congressional Record. While the Senate rule requires a one week public notice, a separate standing order of the Senate requires each Senate committee to notify the Daily Digest Office as soon as a hearing is scheduled [S.Res. 4, 95th Congress]. Hearings are generally open to the public, but can be closed by a committee roll-call vote in open session if the subject matter falls within specific categories enumerated in Senate rules.

Although a committee chair determines the agenda and selects witnesses, the minority typically works informally with the majority to invite witnesses representing its views. Senate rules allow the minority-party members of a committee (except Appropriations) to call witnesses of their choice on at least one day of a hearing. Witnesses before Senate committees generally must provide the committee with a copy of their written testimony at least one day before their oral testimony, with specifics set out in individual committee rules. It is common practice to request witnesses to limit their oral remarks to a brief summary of the written testimony.

A question-and-answer period generally follows a witness's testimony. Each committee determines the order in which Senators question witnesses. Although Senate rules do not restrict the length of time each Senator may question a witness, several committees have adopted such rules. Some committees also authorize committee staff to question witnesses.

Committee Markup

A markup is a meeting of the committee to debate and consider amendments to a measure under consideration. The markup determines whether the measure pending before a committee will be recommended to the full Senate, and whether it should be amended in any substantive way.

Procedures in markup for the most part reflect procedures used on the Senate floor, possibly modified by an individual committee's rules. The process begins when the chair of the committee schedules and sets the agenda for the markup. In leading a markup, the chair has broad discretion choosing the legislative vehicle and presenting it for consideration and amendment. The measure that is marked up may be one that was introduced in the Senate, or received from the House and referred to the committee. Alternatively the chair may choose to consider the text of a draft measure that has not been introduced, such as a subcommittee-reported version or a chairman's mark. In still other cases, the markup vehicle may be placed before the committee as an "amendment in the nature of a substitute" for the measure or text initially referred to it.

Reporting Legislation

When a committee concludes its markup, any committee member may move to order the measure reported to the Senate. A committee has several options for the form in which the a measure is ordered reported. It may be reported with no changes, with amendments to various sections adopted in markup, or with one amendment in the nature of a substitute. In addition, a Senate committee is authorized to report an original bill that embodies a text decided upon in

markup.

Senate rules require the physical presence of a majority of the committee in order to report a measure. Absent Senators may vote by proxy on reporting a measure unless a committee has adopted a rule to the contrary, but such proxy votes may not effect the outcome of a vote to report a measure, and proxies may not be counted to determine a quorum.

Following a committee's vote to order a measure reported, it is the duty of the committee's chairman to report the measure promptly to the Senate. When a committee reports a measure, it generally prepares an accompanying written report that describes the purposes and provisions of the measure. If a report is submitted, Senate rules and statutes require the inclusion of such components as records of roll-call votes cast in committee, cost estimates, a statement of regulatory impact, and the specific changes the legislation would make to existing law. Committee members are also entitled to at least three days to prepare supplementary, minority, or additional views for inclusion in the report.

Committee Publications

Senate committees publish a variety of documents dealing with legislative issues, investigations, and internal committee matters. Print copies of these publications are generally available from the issuing committees or the Senate document room. Increasingly, committee publications are available in electronic format, either on the committee's web site or via GPO Access.

Hearings

Printed hearings contain the edited transcript of testimony, but they are often not published for months after a hearing. Hearing transcripts are usually available for inspection in committee offices and are often posted online.

Committee Reports on Measures

A committee report accompanying legislation, described above, provides an explanation of a measure, and the committee's actions in considering it.

Committee Calendars

Committee calendars are comprehensive records of a committee's actions, including committee rules, membership, brief legislative histories of measures referred to the committee, lists of hearings and markups held, and often a list of committee publications. Calendars are published at the end of each Congress.

Committee Prints

Finally, committees may also publish other information as "committee prints." A committee print might include committee rules or a report on a policy issue the committee wants to distribute widely, but in a form which is less formal than a committee report. A committee may also prepare a text which the Senate (by resolution) orders printed as a numbered Senate document.

Senate Floor Procedure

Senate Proceedings and Senators' Rights

Senate floor proceedings are governed not only by the Senate's standing rules and precedents, but by various customary practices. Generally, these practices expedite business, but require unanimous consent.

Senate rules and practices emphasize full deliberation more than expeditious decision, and rights of individual Senators more than the powers of the majority. Senators can protect their rights by objecting to unanimous consent requests to waive rules. Compromise and accommodation tend to prevail; Senators most often insist on strict enforcement of rules in contentious situations.

Debate, Filibusters, and Cloture

The presiding officer of the Senate may not use the power to recognize Senators to control the flow of business. If no Senator holds the floor, any Senator seeking recognition has a right to be recognized, and then, usually, to speak for as long as he or she wishes (but only twice a day on the same question). Once recognized, a Senator can move to call up any measure or offer any amendment or motion that is in order. Senate rules do not permit a majority to end debate and vote on a pending question.

Generally, no debatable question can come to a vote if Senators still wish to speak. Senators who oppose a pending bill or other matter may speak against it at indefinite length, or delay action by offering numerous amendments and motions. A filibuster involves using such tactics in the hope of convincing the Senate to alter a measure or withdraw it from consideration. The only bills that cannot be filibustered are those few considered under provisions of law that limit time for debating them.

The only procedure Senate rules provide for overcoming filibusters is cloture, which cannot be voted until two days after it is proposed in a petition signed by 16 Senators. Cloture requires the support of three-fifths of Senators (normally 60), except on proposals to change the rules, when cloture requires two-thirds of Senators voting. If the Senate invokes cloture on a bill, amendment, or other matter, its further consideration is limited to 30 additional hours, including time consumed by votes and quorum calls, during which each Senator may speak for no more than one hour.

Scheduling Legislative Business

Senate business includes legislative business (bills and resolutions) and executive business (nominations and treaties). (The Senate also sits as a court to try impeachments, for which a special, separate set of rules applies.) When introduced or received from the House or the President, legislative or executive business is normally referred to the committee with appropriate jurisdiction. Business is placed on the legislative or executive calendar, and becomes available for floor consideration, if the committee reports it.

The Senate accords its majority leader prime responsibility for scheduling. He may carry out this responsibility by moving that the Senate proceed to consider a particular matter. By precedent, he and the minority leader are recognized preferentially, and by custom only he (or his designee) makes motions or requests affecting when the Senate will meet and what it will consider.

For executive business, this motion to proceed may be offered in a nondebatable form, but for legislative business it usually is debatable. Whenever possible, therefore, the majority leader instead calls up bills and resolutions by unanimous consent. If Senators object to unanimous consent to take up a measure, they are implicitly threatening to filibuster a motion to consider it. They may do so because they oppose that measure, or in the hope

of influencing action on some other matter.

Senators can even place a "hold" on a measure or nomination, although this practice is not recognized in Senate rules. "Holds" are requests by Senators to their party's floor leader to object on their behalf to any request to consider a matter, at least until they have been consulted. The majority leader will usually not even request consent to consider a measure if there is a hold on it.

Senate rules also permit a measure to be placed directly on the calendar when introduced or received from the House. This process permits Senators to bypass referral to a committee they believe unsympathetic. Alternatively, if a committee fails to report a measure, a new measure with exactly the same provisions may be introduced and placed directly on the calendar.

Finally, Senate rules do not require that amendments be germane or relevant, except to general appropriation bills, budget measures, and matters under cloture (and a few other bills, pursuant to statutes). Consequently, if a committee fails to report a measure, a Senator may offer its text as an amendment to any other measure under consideration, without regard to the scheduling preferences of the majority leader.

The Daily Order of Business

Each time the Senate convenes after an adjournment, a new legislative day begins. On each new legislative day, Senate rules provide for a "Morning Hour" during which routine "morning business" can occur, such as introducing bills and submitting committee reports. During this period, the Senate may also be able to take up bills on the calendar by nondebateable motions.

In practice, the Senate often recesses at the end of the day, rather than adjourning. Party leaders sometimes prefer a recess because it gives them greater flexibility in shaping the Senate's daily business. Since there is then no Morning Hour when the Senate next convenes, the majority leader usually obtains unanimous consent for "a period for routine morning business," such as bill introductions. Senators often make brief speeches during this period.

After the Morning Hour or the period for routine morning business, the Senate normally resumes consideration of the business previously before it. This business may be set aside, temporarily or indefinitely, in favor of other business through motions or unanimous consent requests by the majority leader. At any point in the day, noncontroversial business also may be conducted by unanimous consent.

Unanimous Consent Agreements

Senators' rights to debate and to offer nongermane amendments encourage the leaders to seek unanimous consent agreements that limit the exercise of these rights during consideration of a specified matter. If any Senator objects, the Senate cannot impose such an agreement, but once it is accepted, the Senate may later change its terms only by unanimous consent.

Unanimous consent agreements limiting the time for debate on a measure are frequently called "time agreements." Time agreements impose stated limits on debate of questions that may arise during consideration of a measure, and often on the legislation itself. These agreements place the time provided under the control of managers. Other Senators then may speak only if a manager yields them part of the time he or she controls.

Unanimous consent agreements also may require that amendments to a measure be germane, or, alternatively, relevant to it. Relevancy is a somewhat less restrictive standard than germaneness. An agreement may prohibit all amendments to a measure except those it specifically identifies.

Responsibility for negotiating time agreements falls primarily on the party floor leaders and the leaders of the reporting committee. Individual Senators advise the leaders of their preferences and intentions, and time agreements may include exceptions to their general provisions in order to satisfy these preferences.

The Senate begins consideration of most measures without first having reached a time agreement. For some measures, few amendments and little debate are expected, making an agreement unnecessary. For others, consideration may proceed while the floor leaders and managers try to arrange unanimous consent agreements for limited purposes. Before consideration of a controversial amendment, for example, leaders may propose to limit debate on it. If extended consideration occurs, the leaders often seek an overall agreement limiting debate on each remaining amendment, or setting a time for a vote on final passage.

The Amending Process

Floor consideration of a measure usually begins with opening statements by the floor managers, and often by other Senators. The managers usually are the chair and ranking minority member of the reporting committee or pertinent subcommittee.

The first amendments to be considered are those recommended by the reporting committee. If the committee has proposed many amendments, the manager often obtains unanimous consent that these amendments be adopted, but that all provisions of the measure as amended remain open to further amendment. After committee amendments are disposed of, amendments may be offered to any part of the measure in any order. If the committee recommends a substitute for the full text of the measure, the substitute normally remains open to amendment throughout its consideration.

The Senate may dispose of each amendment either by voting on it directly or by voting to table it. The motion to table cannot be debated; and, if the Senate agrees to it, the effect is the same as a vote to defeat the amendment. If the Senate defeats the motion, however, debate on the amendment may resume.

While an amendment is pending, Senators may propose amendments to it (called second-degree amendments) and to the part of the measure the amendment would change. The Senate votes on each of these amendments before it votes on the first-degree amendment (the amendment to the measure). Many additional complications exist. When a complete substitute for a measure is pending, for example, Senators can propose six or more first- and second-degree amendments to the substitute and the measure before any votes must occur.

If an amendment is considered under a time limitation, Senators may make no motions or points of order, or propose other amendments, until all the time for debating the amendment has been used or yielded back. Sometimes, however, the Senate unanimously consents to lay aside pending amendments temporarily in order to consider another amendment to the measure.

The amending process continues until the Senate orders the bill engrossed and read a third time, which precludes further amendment. Then the Senate votes on final passage.

Voting and Quorum Calls

The Constitution requires a majority of Senators to be present for the Senate to conduct business. If a Senator suggests the absence of a quorum, and a majority of Senators do not respond to their names, the Senate can only adjourn, recess, or attempt to secure the attendance of additional Senators. However, the purpose of a quorum call usually is to suspend floor activity temporarily to accommodate individual Senators, discuss procedural or policy problems, or arrange subsequent proceedings. As a result, quorum calls usually are ended by unanimous consent before the clerk completes a call of the roll.

Article I, sec. 5, paragraph 3 of the Constitution provides that one-fifth of those present (11 Senators, if no more than a quorum is present) can order the yeas and nays — also known as a rollcall vote or a recorded vote. If a Senator asks for the yeas and nays on a pending question, and the Senate orders them, it does not mean that a vote will occur immediately. Instead, ordering the yeas and nays means that whenever the vote does occur, it will be by roll call and will be recorded in the Journal. Otherwise, votes usually are taken by voice vote.

Resolving Differences with the House

A bill cannot become a law of the land until it has been approved in identical form by both houses of Congress. Once the Senate amends and agrees to a bill that the House already has passed—or the House amends and passes a Senate bill—the two houses may begin to resolve their legislative differences by way of a conference committee or through an exchange of amendments between the houses.

Conference Committees

If the Senate does not accept the House's position (or the House does not agree to the Senate's position), one of the chambers may propose creation of a conference committee to negotiate and resolve the matters in disagreement between the two chambers. Typically, the Senate gets to conference with the House by adopting this standard motion: "Mr. President, I move that the Senate insist on its amendments (or "disagree to the House amendments" to the Senate-passed measure), request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees." This triple motion rolled into one—to insist (or disagree), request, and appoint—is commonly agreed to by unanimous consent. The presiding officer formally appoints the Senate's conferees. (The Speaker names the House conferees.) Conferees are traditionally drawn from the committee of jurisdiction, but conferees representing other Senate interests may also be appointed.

There are no formal rules that outline how conference meetings are to be organized. Routinely, the principals from each chamber or their respective staffs conduct pre-conference meetings so as to expedite the bargaining process when the conference formally convenes. Informal practice also

determines who will be the overall conference chair (each chamber has its own leader in conference). Rotation of the chairmanship between the chambers is usually the practice when matched pairs of panels (the tax or appropriations panels, for example) convene in conference regularly. For standing committees that seldom meet in conference, the choice of who will chair the conference is generally resolved by the conference leaders from each chamber. The decision on when and where to meet and for how long are a few prerogatives of the chair, who consults on these matters with his or her counterpart from the other body.

Once the two chambers go to conference, the respective House and Senate conferees bargain and negotiate to resolve the matters in bicameral disagreement. Resolution is embodied in a conference report, signed by a majority of Senate conferees and House conferees. The conference report must be agreed to by both chambers before it is cleared for presidential consideration. In the Senate, conference reports are usually brought up by unanimous consent at a time agreed to by the party leaders and floor managers. Because conference reports are privileged, if any Senator objects to the unanimous consent request, a nondebatable motion can be made to take up the conference report. Approval of the conference report itself is subject to extended debate, but conference reports are not open to amendment.

Almost all of the most important measures are sent to conference, but these are only a minority of the bills that the two houses pass each year.

Exchange of Amendments between the Houses

Differences between versions of most noncontroversial bills and some major bills that must be passed quickly are reconciled through the exchange of amendments between the houses. The two chambers may send measures back and forth, amending each other's amendments until they agree to identical language on all provisions of the legislation. Generally, the provisions of an amendment between the houses are the subject of informal negotiations, so extended exchanges of amendments are rare. But there is also a parliamentary limit on the number of times a measure may shuttle between the chambers. In general, each chamber has only two opportunities to amend the amendments of the other body because both chambers prohibit third-degree amendments. In rare instances, however, the two chambers waive or disregard the parliamentary limit and exchange amendments more than twice. The current record is nine exchanges.

At any stage of this process a chamber may accept the position of the other body, insist on its most recent position, request a conference to resolve the remaining differences, or refuse to take further action and allow the measure to die.

The Senate normally takes action on an amendment of the House only when there is an expectation that the amendment may be disposed of readily, typically by unanimous consent. In the absence of such an expectation, the Senate will generally proceed to conference in order to negotiate a resolution to any serious disagreements within the Senate or with the House rather than attempt to resolve them on the floor.

Enrollment

The Senate and House must resolve all their disagreements concerning a bill

or joint resolution before it can be "enrolled" and presented to the President for his approval or veto. When the measure has finally been approved by both houses, all the original papers are transmitted to the enrolling clerk of the originating chamber.

Enrollment and Presidential Action

Enrollment and Presentation

After the Senate and House resolve all their disagreements concerning a bill or joint resolution, all the original papers are transmitted to the enrolling clerk of the originating chamber, who has the measure printed on parchment, certified by the chief officer of the originating chamber, and signed by the Speaker of the House and by either the Vice President (who is the President of the Senate) or the authorized presiding officer of the Senate. The enrolled bill then goes to the President for his approval or veto.

Measures are not always presented immediately to the President. A variety of factors can produce delays. When the President has been out of the country for long periods of time, for example, the White House and congressional leaders have agreed that enrolled measures will be presented to the President upon his return; at other times, measures have been sent to the President overseas. In other instances, congressional leaders present measures so as to give time for organizing public signing ceremonies or so the signing to take place on a particular day. In still other instances, depending on whether the President is expected to sign or veto a measure, congressional leaders time the presentation to avoid or to bring political pressure to bear on the President.

Presidential Action

Pursuant to Article 1, section 7 of the Constitution, "Every Bill, which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States;" If the President approves and signs the measure within 10 days, it becomes law. The 10-day period begins on midnight of the day the President receives the measure, and Sundays are not counted. Thus, if the President were to receive an enrolled measure on Thursday, February 14th, the first day of the 10-day period would be Friday, February 15th; the last day would be Tuesday, February 26th.

If the President objects to a measure, he may veto it by returning it to its chamber of origin together with a statement of his objections, again within the same 10-day period. Unless both chambers subsequently vote by a 2/3 majority to override the veto, the measure does not become law.

If the President does not act on a measure—approving or vetoing it—within 10 days, the fate of the measure depends on whether Congress is in session. If Congress is in session, the bill becomes law without the President's approval. If Congress is not in session, the measure does not become law. Presidential inaction when Congress is not in session is known as a pocket veto. Congress has interpreted the use of the pocket veto to be limited to the final, so-called sine die adjournment of the originating chamber. The President's pocket veto authority is not definitively decided.

