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Calling Up Business on the Senate Floor

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Summary

The Senate takes up measures and matters under procedures set in Senate rules and by long-standing customs, thereby giving it flexibility in setting its floor agenda. This report first treats those processes or customs most often used by the Senate and then discusses some procedures less often used to call up business.

This report will be revised as events warrant.

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The Senate takes up business under procedures set in Senate rules and by long-standing custom, thereby giving it flexibility in setting its floor agenda. This report first discusses those processes or customs most often used by the Senate and then discusses some procedures less often used to call up business.

Offering Agenda-Setting Motions and Requests

Under chamber rules, technically any Senator may offer the necessary agenda-setting motions “to proceed to the consideration” of a bill, resolution, or item of executive business. However, by long-established custom, in practice only the majority leader or his or her designee offer agenda-setting motions. (See CRS Report RS21255, *Motions to Proceed to Consider Measures in the Senate: Who Offers Them?*, by Richard S. Beth and Mark J. Oleszek.) Items called up are often those on the Senate’s legislative or executive calendars, either reported by committee or, in the case of bills and joint resolutions, placed on the legislative calendar directly under Rule XIV (see CRS Report RS22309, *Senate Rule XIV Procedure for Placing Measures Directly on the Senate Calendar*, by Michael L. Koempel).

Holds, Clearance, and Unanimous Consent

Holds, long recognized by custom, are notices from Senators to their party floor leaders that they intend to object to a unanimous consent request to bring a matter up for consideration on the Senate floor. Holds also serve to identify controversial bills or controversial items within a bill (see CRS Report R43563, *“Holds” in the Senate*, by Mark J. Oleszek).

Leaders also invite Senators to file “requests to be consulted” with the staff of the respective party secretaries. Through these requests, Senators join in talks about compromise versions of bills and potential amendments, the Senate’s floor schedule, and conditions of floor action. When consulted Senators no longer report any concerns, a bill is said to have “cleared both sides of the aisle.” Such bills are generally called up by unanimous consent, considered, and agreed to by voice vote with little or no actual floor debate.

Through negotiations inherent in the hold and consultation process, floor leaders can often get Senators to agree to take up a bill despite the reservations some have about key provisions in it. Thus, usually, the majority leader or his or her designee will ask unanimous consent to proceed to the consideration of a measure pending on the Senate calendar.

Motion to Proceed

Alternatively, the majority leader may move to proceed to the consideration of the measure or matter. Normally, this motion is debatable. Debate on the motion can be ended only by unanimous consent or by invoking cloture. If the motion to proceed is agreed to, consideration of the bill begins without debate limits (unless also imposed by unanimous consent or cloture).

There are few circumstances in which a motion to proceed is not debatable. Motions to take up certain privileged items of business (discussed in the next section) are not debatable. Although infrequently used, debate is also prohibited on motions to proceed offered on the beginning of a new legislative day during the “morning hour” after the completion of “morning business.” Under Senate Rule VIII, a two-hour period known as the morning hour occurs automatically at the beginning of a new legislative day, and within this two-hour period, a period is reserved for the transaction of morning business, such as the filing of committee reports and the receipt of executive communications. Under this Rule VIII procedure, the motion to proceed is not

debatable if offered during the morning hour. If the motion is agreed to, the measure becomes the pending business before the Senate. At the end of the morning hour, any unfinished legislative business pending on the previous day when the Senate adjourned will displace the measure just taken up.

The non-debatable motion to proceed under Rule VIII poses many parliamentary difficulties and is, therefore, rarely used by the majority leader. In actual practice, the Senate almost always begins a new legislative day under procedures established by unanimous consent, rather than relying on the automatic procedures for a morning hour contained in Rule VIII. Such unanimous consent agreements commonly include a stipulation that the morning hour be “deemed to have expired.”

Other Procedures

Privileged Business

Motions to take up privileged items of business are not debatable and, hence, are usually taken up by unanimous consent. Among the items of privileged business are budget resolutions, reconciliation bills, conference reports, measures to resolve election contests, and measures to impose disciplinary sanctions against Senators. Motions to go into executive session to consider a nomination, treaty, or resolution on the Senate Executive Calendar are also privileged and non-debatable.

Special Orders

On the motion of any Senator, a measure or matter can be made a special order of business at some future specified date. Such motions are very rarely used, because they are fully debatable and need a two-thirds vote for approval.

Resolutions and Motions Over, Under the Rule

If there is objection to considering a resolution when it is submitted, the resolution is said to “go over, under the rule,” and is placed on a special section of the Calendar of Business reserved for this purpose. Such resolutions are to be laid before the Senate on the next legislative day during the morning business period (described above), which would occur automatically under Rule VIII. Items pending at the end of morning business return to the Calendar of Business and can be called up later by a debatable motion or unanimous consent. In current practice, however, few resolutions go “over, under the rule,” and because (as noted above) the Senate almost never engages in morning business created by the beginning of a new legislative day as called for under Rule VIII, those resolutions that do are essentially placed in a kind of parliamentary limbo. They remain pending on the Calendar of Business, unreachable except by unanimous consent or by a rare morning hour created by operation of the rule. Executive resolutions that are placed on the Executive Calendar “over, under the rule” can be subsequently reached by unanimous consent or, as noted above, by non-debatable motion.

Discharge Motion

Motions to discharge committees from the further consideration of any measure or matter (for example, a nomination or treaty) must lie over for one day, and debate on such a motion is not limited. As such, three-fifths of all Senators may need to vote for cloture in order for the chamber

to reach a final vote on the motion. (For more information on nomination procedures, see CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki.) If agreed to, a motion to discharge would place a measure or matter on the relevant chamber calendar.

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