

# Quorum Requirements in the Senate: Committee and Chamber

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## Quorum Requirements in Committee

Senate Rule XXVI establishes minimum quorum requirements for four areas of committee activity. These are listed in the following table.

Action	Minimum Quorum	Rule XXVI
To report a measure, matter, or recommendation	A majority of the committee “physically present”	(7)(a)(1)
To close a meeting or hearing	A majority of the committee	(5)(b)
To transact business other than reporting a measure, matter, or recommendation	One-third of membership	(7)(a)(1)
To take sworn or unsworn testimony	One-third of membership, or a “lesser number” as may be authorized by the committee	(7)(a)(2)

Senate committees have discretion in adjusting the minimum quorum requirements mandated in Rule XXVI so long as they adopt rules that are “not inconsistent with the Rules of the Senate.” For instance, most committees allow a single Senator to take testimony at a hearing rather than the one-third required by Rule XXVI. Committees cannot change the majority physically present quorum needed for reporting a measure. Proxy voting is allowed under Senate rules on a vote to report a matter, but a majority must be physically present and proxy votes cannot make a difference in successfully ordering a measure reported.<sup>1</sup>

## Quorums in the Senate

Rules and practices for quorums in the Senate derive from Article I, Section 5, clause 1, of the Constitution, which states in part that “a Majority of each [chamber] shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such penalties as each House provides.” Thus, the quorum for conducting business in a Senate of 100 Members is 51 Senators. The Senate always presumes the presence of a quorum unless it is shown one is not present. In practice, there are rarely 51 Senators present in the Senate chamber except when the Senate is voting. Any Senator can challenge the presumption of a quorum by rising and stating: “Mr. President, I suggest the absence of a quorum.” Usually, the presiding officer cannot count to determine if a quorum is present but, according to the requirements of Rule VI, paragraph 3, must immediately direct the clerk to call the roll. (Only when the Senate has invoked Rule XXII and is operating under cloture does the presiding officer have the authority to count to determine the presence of a quorum.)

In the Senate, the quorum call is more often a device by which the chamber can suspend its formal proceedings temporarily than a procedure to bring legislators to the floor for a vote. Senators initiate quorum calls for several reasons. For example, when a Senator completes a statement and notices that no one else is on the floor, the Senator typically suggests the absence of a quorum. When the Senate finds itself confronted with a procedural problem or policy disagreement, a Senator will sometimes respond by suggesting the absence of a quorum in the hope that the matter can be resolved through informal conversations while the clerk is calling the

<sup>1</sup> For more information, see CRS Report RS22952, *Proxy Voting and Polling in Senate Committee*, by Christopher M. Davis.

role. Such quorum calls provide an opportunity for informal discussions and negotiations among Senators. Because quorum calls for these purposes are recognized as a procedure for constructive delay, the clerk calls the role very slowly.

Once the quorum call has begun, the Senate may not resume business until either a majority of Senators has responded to the call or the Senate has, by unanimous consent, agreed to a request to “dispense with further proceedings under the quorum call.” In such a case, whether or not a quorum of the membership has come to the floor, the Senate returns to business.

There are instances when a quorum call is intended to bring Senators to the floor to register their presence. Four instances may result in such a situation, called a “live” quorum call: (1) under Rule XXII, immediately before any cloture vote; (2) under Rule XII, before the Senate acts on a unanimous consent request to set a date for voting on whether to pass a bill or joint resolution; (3) when the majority leader suggests the absence of a quorum and announces that there is to be a live quorum call because he wishes to bring Senators to the floor for some reason; or (4) when the clerk completes a routine quorum call without a majority of Senators having responded. Quorum calls for cloture and unanimous consent agreements are usually waived by unanimous consent. During a live quorum call, the clerk calls the names of Senators more quickly.

When a Senator who has the floor requests the yeas and nays on the pending question, the Senate assumes—as its regular practice—that those present constitute a quorum. The Senate usually requires that the request for a roll-call vote must be supported by at least one-fifth of the smallest possible quorum. Consequently, at least 11 Senators—one-fifth of the minimum quorum of 51 Senators—must raise their hands to support a request for a roll-call vote. If there is sufficient support, the question then pending before the Senate will be decided by a roll-call vote whenever the time arrives for voting on that question.

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This report was originally prepared by former CRS specialist Richard C. Sachs.