

Committee Jurisdiction and Referral in the Senate

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The House of Representatives and Senate Explained

Congressional Procedure

A Practical Guide to the Legislative Process in the U.S. Congress

Richard A. Arenberg

Foreword by Alan S. Frumin

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Mark J. Oleszek

Analyst on Congress and
the Legislative Process

Committee Jurisdiction and Referral in the Senate

When legislation is introduced in the Senate or received from the House, referral to a standing committee is governed primarily by the jurisdictional statements contained in paragraph 1 of Senate Rule XXV. These statements define the policy subjects on which each standing committee may exercise jurisdiction on behalf of the Senate. The statements themselves tend to address broad policy areas rather than specific departments, agencies, or programs of the federal government. Because committee jurisdiction often is expressed in general policy terms, it is possible for more than one committee to claim jurisdiction over different aspects of a broad subject that may encompass a myriad of specific programs and activities.

While the jurisdiction of Senate committees is established in Rule XXV, the referral of legislation is governed by Rule XVII. That rule provides for measures to be referred “in favor of the committee which has jurisdiction over the subject matter which predominates in such proposed legislation.” The predominant subject of a bill generally is determined by the subject it addresses at greatest length, but if revenue provisions are included then the Finance Committee would receive the bill on referral. Any number of subjects may be addressed in a given measure, but only one of those subjects can be considered to “predominate” in the legislative text. It is this determination of subject matter predominance and its connection to the jurisdictional statements of Rule XXV that governs how measures are referred.

Although rare, referral of a bill to more than one committee (whether jointly or in sequence) is permitted in specific circumstances. A “joint” or “sequential” referral would ordinarily occur under the terms of a unanimous consent request negotiated by the affected committees and approved by the Senate. Consent agreements on questions of jurisdiction can provide more nuanced guidance beyond the statements in Rule XXV on the referral of measures covered by the agreement.

As with legislation, the referral of nominations is guided by the jurisdictional statements of Rule XXV. Most nominations are sent to a single committee, but in some cases the Senate has agreed to refer particular nominations to more than one committee, either jointly or sequentially. These arrangements might be executed by unanimous consent, by adoption of a standing order, or through statute.

The jurisdictions of subcommittees are not explicitly stated in Senate rules. The jurisdiction of a subcommittee is generally determined by the full committee that created it. In many cases, the full committee will establish the jurisdictions of its subcommittees in the rules that committees are required to adopt during the first few months of a new Congress.

An important distinction can be made between legislative and oversight jurisdiction. Legislative jurisdiction describes the authority of a committee to receive and report measures to the Senate. Oversight jurisdiction refers to a committee’s ability to review matters within its purview, for instance by conducting hearings and investigations. Paragraph 8 of Rule XXVI directs all standing committees “to review and study, on a continuing basis the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the legislative jurisdiction of that committee.”

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Jurisdiction of Senate Committees

When legislation is introduced in the Senate or received from the House, referral to a standing committee is governed primarily by the jurisdictional statements contained in paragraph 1 of Senate Rule XXV.¹ These statements define the policy subjects on which each standing committee may exercise jurisdiction on behalf of the Senate. The statements themselves tend to address broad policy areas rather than specific departments, agencies, or programs of the federal government. Many federal departments and agencies handle a wide variety of policy areas that do not fit neatly within the jurisdiction of a single committee. Because committee jurisdiction often is expressed in general policy terms, it is possible for more than one committee to claim jurisdiction over different aspects of a broad subject that may encompass a myriad of specific programs and activities.

Referral of Legislation in the Senate

While the jurisdiction of Senate committees is established in Rule XXV, the referral of legislation is governed by Rule XVII. That rule provides for measures to be referred “in favor of the committee which has jurisdiction over the subject matter which predominates in such proposed legislation.”² The predominant subject of a bill generally is determined by the subject it addresses at greatest length, unless the measure contains revenue provisions. Revenue measures get referred to the Finance Committee—even if the amount of revenue language in a bill constitutes a small share of the bill’s text—because the revenue component of the measure is considered its predominant subject.

Any number of subjects may be addressed in a given measure, but only one of those subjects can be considered to “predominate” in the legislative text. It is this determination of subject matter predominance and its connection to the jurisdictional statements of Rule XXV that governs how measures are referred.³ Consider, for instance, subjects concerning the nation’s forests and how legislation dealing with issues of forestry management might be referred under the predominance standard. Based on the jurisdictional statements of Rule XXV, at least two Senate committees might seek referral of such a bill based (at least in part) on ownership of the land on which the forested area is located. As Rule XXV states, the Committee on Agriculture, Nutrition, and Forestry has jurisdiction over “Forestry, and forest reserves and wilderness areas other than those created from the public domain,” while subjects involving “Public lands and forests” fall within

¹ The jurisdictions of standing committees defined in Rule XXV can be viewed online at <https://www.govinfo.gov/content/pkg/CDOC-113sdoc18/pdf/CDOC-113sdoc18.pdf#page=25>. Committees might also be provided legislative or oversight jurisdiction by standing order. For instance, when the Senate adopted S.Res. 400 (94th Congress) to establish the Select Committee on Intelligence in 1976, it expressly provided the committee with jurisdiction over the intelligence community. Most select or special committees created by the Senate are limited in scope, are temporary in duration, and are not provided legislative jurisdiction in their authorizing resolutions.

² U.S. Congress, Senate, *Senate Manual*, 116th Cong., 1st sess., S.Doc. 116-1 (Washington: GPO, 2020), p. 16 (hereinafter *Senate Manual*). Petitions, memorials, presidential messages, and other legislative items properly presented to the Senate also are referred to committee on the basis of subject matter predominance.

³ The Senate’s presiding officer is vested with the formal authority to make referrals, but most day-to-day referral decisions are made “without any comment whatsoever on the floor” by the Senate Parliamentarian in her capacity as a nonpartisan and disinterested agent of the Senate. See Floyd M. Riddick and Alan S. Frumin, *Riddick’s Senate Procedure: Precedents and Practices*, S.Doc. 101-28, 101st Cong., 2nd sess. (Washington: GPO, 1992), pp. 1150-1151. If jurisdictional questions arise regarding a measure’s referral, it may be “held at the desk” of the Senate until those questions are resolved.

the purview of the Committee on Energy and Natural Resources.⁴ Given how jurisdiction over forests is allocated between these two committees, a forestry bill that mainly addresses forested area located on state, tribal, or privately owned land—even if it also contains language affecting forests on federal lands—would be referred to the Agriculture, Nutrition, and Forestry Committee. By the same logic, a measure that primarily deals with forested area on federal lands would obtain a referral to the Energy and Natural Resources Committee, even if some of its provisions would apply to forests on state, tribal, or private lands.⁵

Senate committees, then, can be referred bills that contain matter outside their jurisdiction, so long as the predominant subject of the bill falls within their jurisdiction. Contemporary policy issues are often complex and multidimensional, so in some cases more encompassing legislation that addresses a variety of issues in a single package might be drafted. Furthermore, in some policy areas, the division of labor established in Rule XXV might not be especially relevant to the purposes of the legislation. For instance, a measure that is intended to minimize the threat of forest fires might not distinguish between federal and nonfederal lands, as fire itself makes no such distinction.

Joint and Sequential Referrals

While referral of a bill to more than one committee (a “multiple” referral) is permitted in specific circumstances, measures are typically referred to the one Senate committee with jurisdiction over the main subject addressed in the text. Although rare, referral to more than one committee would ordinarily occur under the terms of a unanimous consent request negotiated by the affected committees and approved by the Senate. Such agreements might structure the referral so a bill is sent to both committees at the same time (a “joint”

Figure 1. Unanimous Consent Agreement Establishing a Sequential Referral

COMMITTEE REFERRAL OF LEGISLATION CONCERNING NATIONAL SCIENCE FOUNDATION
 Mr. BYRD. Mr. President, I ask unanimous consent that any legislation providing authorization of appropriations for the National Science Foundation be referred in the first instance to the Committee on Labor and Human Resources, and if such legislation is reported by the committee, or if the Committee on Labor and Human Resources reports legislation providing authorization of appropriations for the National Science Foundation as an original bill from that committee, that legislation be sequentially referred to the Committee on Commerce, Science, and Transportation for a period of not to exceed 30 calendar days, not to include days when the Senate is not in session, for the purpose of such committee considering matters relating to the National Science Foundation's scientific and engineering research and related activities, and antarctic and special foreign currency programs, including the programs and types of programs, as well as similar initiatives to be undertaken in the future in these programs and types of programs that were included in the categories specified in section 2(A)(1) through (8) of Public Law 99-383.

Source: *Congressional Record*, vol. 134, part 3 (Mar. 3, 1988), p. 3119.

⁴ *Senate Manual*, pp. 25, 29. The “public domain” consists of land owned by the federal government, most of which is located in the western United States. Eastern forests generally sit on state, tribal, or privately owned land.

⁵ Additional committees may exercise jurisdiction in areas connected to forests. For instance, “public works, bridges, and dams” and “water resources” are subjects within the domain of the Environment and Public Works Committee under Rule XXV, so legislation addressing works projects on forested land might be referred to this committee. The Committee on Finance handles “revenue measures generally,” so a measure to provide federal tax credits for damages associated with a forest fire would likely obtain a referral to Finance. “Treaties and executive agreements” and many kinds of foreign assistance programs fall within the purview of the Foreign Relations Committee, so a treaty proposal concerning forests or a bill to provide forest management assistance abroad (in the Amazon, for instance) would potentially get referred to this committee.

referral), or instead sent to a second committee after the first committee reports it (a “sequential” referral).⁶

For instance, under the terms of a unanimous consent request approved by the Senate on March 3, 1988, legislation to authorize certain programs administered by the National Science Foundation would undergo a sequential referral, first going to what is now called the Committee on Health, Education, Labor and Pensions, and then to the Committee on Commerce, Science, and Transportation (see **Figure 1**).

Jurisdictional consent agreements can provide more nuanced guidance beyond the statements in Rule XXV on the referral of measures covered by the agreement. They embody the committees’ understanding of their jurisdictional boundaries, are adhered to when future referrals are made, and remain binding on the Senate unless changed (by unanimous consent) or superseded by an amendment to the standing rules.⁷ These agreements can make additional procedural arrangements and accommodations as well, for instance through appointments to conference if legislation covered by the agreement reaches that point, or by discharging a committee of its consideration if a particular kind of measure remains unreported within a set time period. These agreements may be structured as a standing order that applies to all future legislation on the same topic, as the example in **Figure 1** provides for, or crafted instead to address a specific bill identified in the agreement.

Rule XVII authorizes a separate process, aside from unanimous consent, by which a measure can be referred to more than one committee, whether jointly (at the same time) or sequentially (one after the other, as the agreement in **Figure 1** provided for). The entire bill may be referred to each committee for consideration, or it may be divided with particular titles or sections delivered to separate committees (a “split” referral). As provided for in Rule XVII, legislation can be referred jointly or sequentially by mutual agreement of the majority and minority leaders. The rule also requires advanced notification (24 hours) in the *Congressional Record* that such a motion may be offered, on which two hours of debate would be allowed.⁸

Additional Considerations on Jurisdiction and Referral

Beyond the jurisdictional statements of Rule XXV and any formal agreements reached by committees and approved by the Senate, the jurisdictions of committees and the boundaries that separate them can be predicted through patterns of previous legislative referrals. Past referral decisions establish precedent for the future referral of comparable measures, so the referral of a

⁶ A unanimous consent agreement on referral may apply to a particular measure specified in the agreement, or it may be structured as a standing order that applies to the referral of all future legislation on the same topic.

⁷ Some orders of referral are established in law or by Senate resolution. For instance, S.Res. 400 (94th Congress), which created the Select Committee on Intelligence, set forth a reciprocal “on demand” referral arrangement between the Intelligence Committee and the standing committees. If a standing committee reports on intelligence matters within the jurisdiction of the Intelligence Committee as defined in S.Res. 400, then the Intelligence Committee can obtain a referral of the measure upon its request. Similarly, a measure reported by the Intelligence Committee that contains language within the jurisdiction of another committee may be referred to that committee upon its request.

⁸ The Rule XVII procedure for multiple referral was added to the Senate’s standing rules in 1977 through the adoption of S.Res. 4 (95th Congress), informally referred to as the “Committee Reform Amendments.” See also U.S. Congress, Senate Committee on Rules and Administration, *Committee System Reorganization Amendments of 1977*, report to accompany S.Res. 4, 95th Congress, 1st sess., S.Rept. 95-2 (Washington, DC: GPO, 1977), pp. 58-59. To date, it appears no joint motion has been made under Rule XVII.

Pocket Constitution



The Declaration of Independence
The Constitution of the United States
The Bill of Rights
Amendments XI–XXVII
Gettysburg Address



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measure in one Congress would inform its referral in a subsequent Congress (assuming no intervening change in committee jurisdictions). However, given the predominance standard for referral and the variety of subjects a bill may address, this approach has limitations for determining committee jurisdiction. Referrals of narrowly tailored bills that are drafted to address specific subjects tend to provide the clearest guidance on committee jurisdiction as compared to more comprehensive bills covering many issue areas.

Most measures get referred to committee, but some might forego a referral and be placed directly on the *Legislative Calendar* through procedures established in Senate Rule XIV.⁹ That rule requires bills and joint resolutions to be read three times (by title) on separate days, with the second reading intended to inform the bill's reference to committee. In practice, most bills are referred to committee on the same day they are introduced (or received from the House).¹⁰ If, however, a Senator objects to the second reading of a bill or joint resolution, the measure would be placed directly on the *Calendar* in accordance with Rule XIV. No committee referral would occur, but support from the relevant committee(s) of jurisdiction would likely be needed for the measure to get attention on the floor.¹¹

Another rule of relevance to committee jurisdiction can be found in paragraph 5 of Rule XV, which was added to the Senate's rulebook in 1977 when the Senate reorganized its committee system by way of S.Res. 4 (95th Congress), the "Committee Reform Amendments." As that paragraph states:

It shall not be in order to consider any proposed committee amendment (other than a technical, clerical, or conforming amendment) which contains any significant matter not within the jurisdiction of the committee proposing such amendment.¹²

The intent of this rule is to preserve the division of labor and policy specialization on which the committee system is based by discouraging committees from considering and reporting amendments that fall outside their jurisdiction. If a committee reports an amendment to the Senate that contains a significant amount of subject matter beyond its jurisdiction, a Rule XV point of order against the amendment can be made on the floor. If the point of order is sustained, the committee amendment might not be considered.¹³ Although few such points of order have been lodged against committee-reported amendments since the rule was first established, in some cases the mere possibility a Senator might lodge this point of order during floor consideration could influence how a committee chooses to report its recommendations to the full chamber.

Notice that paragraph 5 of Rule XV applies only to committee-reported amendments. If a committee instead decides to report its recommendations as an "original" bill—which all Senate committees are authorized to do—then a point of order alleging a jurisdictional violation of Rule XV would not be in order.¹⁴ At the time this paragraph was added to Senate rules, Senator

⁹ On the Senate's Legislative Calendar, see CRS Report 98-429, *The Senate's Calendar of Business*, coordinated by Elizabeth Rybicki.

¹⁰ See *Congressional Record*, daily edition, vol. 167 (January 3, 2021), S8.

¹¹ For additional information on Senate Rule XIV, see CRS Report RS22309, *Senate Rule XIV Procedure for Placing Measures Directly on the Senate Calendar*, by Christopher M. Davis.

¹² *Senate Manual*, p. 14.

¹³ To not run afoul of this rule, the text of the committee's amendment could be reoffered as a floor amendment.

¹⁴ An "original" bill is one that is originated by a committee as opposed to being drafted and introduced by an individual Senator and referred to committee on behalf of the Senate. Rule XXV gives all committees "leave to report by bill or otherwise on matters within their respective jurisdictions," so they need not wait for an introduced bill to be referred to them to report their recommendations to the Senate (*Senate Manual*, p. 25).

Howard Cannon, chair of the Rules and Administration Committee, explained the purpose of the new language:

In an effort to discourage a committee from trying to expand its legislative jurisdiction by fiat, the Committee on Rules [and Administration] proposes to make all amendments reported by a committee to a bill over which it does not have jurisdiction subject to a point of order, if that amendment does not fall within the defined jurisdiction of the committee reporting the bill. Such technique has been used in the past by committees proposing committee amendments to a bill which did not fall within their jurisdiction at all, and if amendments became law, subsequent proposals to amend that particular provision of the law would more than likely be referred to the committee which originated the language in the first place. It has been easy under that procedure for committees to expand their jurisdiction.¹⁵

If a committee intends to report an original bill containing matter outside its jurisdiction, in most cases it will inform and seek input from any relevant committees of jurisdiction. Unless some degree of consensus can be reached by committees and interested Senators on any jurisdictional issues that may arise, the bill likely would remain on the *Calendar* until negotiations resolve the impasse.

Referral of Nominations

Under the Constitution, the President nominates and appoints many senior-level federal officials “by and with the advice and consent of the Senate.” When a nomination is submitted to the Senate, it is given a number by the Executive Clerk and (in most instances) referred to committee on the day the presidential message was received. As with legislation, the referral of nominations is guided by the jurisdictional statements of Rule XXV.

Most nominations are sent to a single committee, but in some cases the Senate has agreed to refer particular nominations to several committees, either jointly or sequentially. These arrangements might be executed by unanimous consent, adoption of a standing order, or through statute. For instance, under the terms of a consent agreement reached on January 9, 2007, nominations to most Inspector General positions are referred sequentially: first to the committee exercising predominant subject matter jurisdiction over the work of the agency, and then to the Senate Committee on Homeland Security and Governmental Affairs.¹⁶

Some nominations do not get referred to committee and instead are placed directly on the *Executive Calendar* under the terms of S.Res. 116 (112th Congress), a standing order that enables the expedited consideration of approximately 300 “privileged” nominations. Any Senator may request that a “privileged” nomination be referred, but if certain informational requirements on the nominee are met and no such request is made, then the nomination gets placed directly on the *Executive Calendar* under the section entitled “Privileged Nominations,” making it eligible for floor consideration.¹⁷

¹⁵ *Congressional Record*, vol. 123, part 3 (Feb. 1, 1977), p. 2891.

¹⁶ *Congressional Record*, vol. 153, part 1 (January 9, 2007), p. 487. As stated in Rule XXV, the Homeland Security and Governmental Affairs Committee is responsible for “studying the efficiency, economy, and effectiveness of all agencies and departments of the Government” (*Senate Manual*, p. 33).

¹⁷ Many of these nominations involve part-time appointments to various oversight boards and advisory commissions. For additional information on privileged nominations and the mechanics of S.Res. 116 (112th Congress), see CRS Report R46273, *Consideration of Privileged Nominations in the Senate*, by Michael Greene.

Jurisdiction and Referral to Senate Subcommittees

The jurisdictions of subcommittees are not explicitly stated in Senate rules. The jurisdiction of a subcommittee is generally determined by the full committee that created it. In many cases, the full committee will establish the jurisdictions of its subcommittees in the rules that committees are required to adopt during the first few months of a new Congress.¹⁸ If a subcommittee's jurisdiction is not defined by its parent committee, measures are generally referred to subcommittee or retained by the full committee at the discretion of the committee's chair. Some committees rely more heavily on their subcommittees to process legislation, make recommendations, and conduct oversight than do other committees.¹⁹

Legislative and Oversight Jurisdiction

An important distinction can be made between legislative and oversight jurisdiction. Legislative jurisdiction describes the authority of a committee to receive and report measures to the Senate. Oversight jurisdiction refers to a committee's ability to review matters within its purview, for instance by conducting hearings and investigations. Legislative jurisdiction is defined in paragraph 1 of Rule XXV, while paragraph 8 of Rule XXVI directs all standing committees "to review and study, on a continuing basis the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the legislative jurisdiction of that committee."²⁰

Some committees interpret their oversight responsibilities more broadly than others do, which can lead to jurisdictional disputes over which committee is best equipped to conduct hearings, investigations, or other oversight activities. Given the complexity and interdependence of many policy areas, and considering how subject matter responsibilities are allocated broadly across committees, more than one committee may be involved in overseeing specific aspects of a general subject.²¹

Author Information

Mark J. Oleszek
Analyst on Congress and the Legislative Process

¹⁸ See Rule XXVI, paragraph 2. *Senate Manual*, pp. 41-42.

¹⁹ Historically, one of the Senate's most active subcommittees has been the Permanent Subcommittee on Investigations. That subcommittee of the Homeland Security and Governmental Affairs Committee has been granted broad authority to investigate matters relating to the efficiency and economy of federal government operations across all departments and agencies.

²⁰ *Senate Manual*, p. 47.

²¹ Unlike with legislative jurisdiction, there are no bill referral precedents through which to understand oversight jurisdiction. Moreover, disputes involving oversight jurisdiction generally cannot be adjudicated through a point of order on a measure. Committees with shared responsibilities over a particular policy area may choose to coordinate their oversight activities, for instance by organizing a joint hearing.

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