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# House and Senate Rules of Procedure: A Comparison

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## Summary

More differences than similarities emerge when comparing selected House and Senate rules of procedure for referring legislation to committees, and for scheduling, raising and considering measures on the floor.

While the House uses four calendars (Union, House, Private, Discharge), the Senate only employs two calendars (Legislative and Executive). The House's system of special days for considering certain types of measures (e.g., "District Days") has no equivalent in the Senate.

In making scheduling decisions, the Speaker typically consults only with majority party leaders and selected Representatives whereas the Senate Majority Leader confers broadly with minority party leaders and interested Senators. The Speaker's dual position as leader of the majority party and the House's presiding officer gives him more authority to govern floor proceedings than the Senate's presiding officer. While debate time is always restricted in the House, individual Senators generally have the right to unlimited debate.

Most noncontroversial measures are approved by "suspension of the rules" in the House, and by unanimous consent in the Senate. Floor consideration of major bills is generally governed by "special rules" in the House, and by "complex unanimous consent agreements" in the Senate. The House typically meets in the Committee of the Whole to consider major legislation; no such committee exists in the Senate. The House considers and amends legislation in a more structured manner (e.g., by section or title) than the Senate. In addition, while germaneness of amendments is required in the House, it is mandated only in four instances in the Senate. Rollcall votes can be requested at almost any time in the Senate, but only after completing a voice or division vote in the House.

Because the Senate often recesses instead of adjourning at the end of the day, Senate legislative days can continue for several calendar days. By contrast, the House routinely adjourns at the end of each legislative day.

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## Introduction

House and Senate rules of procedure are largely a function of the number of members comprising each chamber. In the House, a structured legislative process and strict adherence to the body's rules and precedents have resulted from the need to manage how 435 Representatives make decisions. By contrast, the Senate's smaller membership has brought about a less formal policy-making process and a more flexible approach to the chamber's standing rules. While individual Representatives must typically yield to the majority will of the House, the Senate usually accommodates the interests of individual Senators.

This report compares selected House and Senate rules of procedure for various stages of the legislative process: referral of legislation to committees; scheduling and calling up measures; and floor consideration. No attempt is made to present a comprehensive discussion of how both chambers operate.

## Referral of Legislation

In both the House and Senate, the presiding officer (see "Presiding Officer and Recognition Practices" section) refers newly-introduced legislation and measures passed by the other chamber to the appropriate standing committee. Upon advice from the Parliamentarian, the presiding officer bases referral decisions on the chamber's rules and precedents for subject matter jurisdiction. Legislation passed by the other body usually receives floor consideration without reference to a committee if there already is a companion bill on a calendar (see discussion of "Calendars" in next section).

The House changed its referral rule (Rule XII, clause 2) at the beginning of the 104<sup>th</sup> Congress. This change was aimed at reducing the number of measures referred to more than one committee, commonly called "multiple referrals." The rules change eliminated joint referrals, a type of multiple referral where a measure is simultaneously referred to two or more committees. Under the new rule, the Speaker designates "a committee of primary jurisdiction" (based on the committee jurisdictions itemized in Rule X) when referring measures to more than one committee. In practice, two types of multiple referrals can take place if the Speaker first selects a primary committee: a *sequential referral* (the measure is referred to one committee, then to another, and so on; the Speaker can establish time limits for each committee's consideration); and a *split referral* (specifically designated portions of a measure are referred to one or more committees). In the 108<sup>th</sup> Congress, House rules were changed to allow the Speaker to not designate a primary committee "under exceptional circumstances."

House committees often develop "memorandums of understanding" (sometimes referred to as "letters of agreement") which explain an agreement between committees about how to divide jurisdiction over specific policy issues. These memorandums are sent to the Speaker in the form of letters from the involved committee chairmen, and are sometimes printed in the *Congressional Record*. The memorandums seek to advise the Speaker on referral decisions where committee jurisdictions are unclear or overlapping.

Under the Senate's referral rule (Rule XVII, paragraph 1), legislation is referred to "the committee which has jurisdiction over subject matter which predominates" in the measure (sometimes referred to as "predominant jurisdiction").<sup>1</sup> Senate Rule XXV lists the subjects for

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<sup>1</sup> Treaties and nominations submitted by the President also are referred to committees to be studied and reported. This report does not discuss procedures governing Senate consideration of treaties and nominations. See the discussion of

which the standing committees are responsible. Senate Rule XIV requires that measures be read twice on different legislative days (see “Adjournment and Legislative Days” section) before being referred to a committee. Most bills and joint resolutions, however, are considered as having been read twice and are referred to committee upon introduction. Under Rule XIV, when a Senator demands two readings and there is objection to the measure’s second reading, the measure is placed directly on the Calendar of Business (see next section) without reference to committee.

Three types of multiple referrals—*joint*, *sequential* and *split*—are allowed in the Senate. In practice, measures are referred to multiple committees by unanimous consent. Under the Senate’s standing rules (Rule XVII, paragraph 3), the Senate Majority and Minority Leaders can make a joint leadership motion to jointly or sequentially refer legislation to multiple committees. However, this rule has never been used since its adoption by the Senate in 1977. In general multiple referrals are more common in the House than in the Senate.

## Scheduling and Raising Measures

### Calendars

Measures reported from House committees (except for private measures) are referred to either the Union or House Calendar (Rule XIII, clause 1(a)). In general, the *Union Calendar* receives all measures which would be considered in the Committee of the Whole, such as tax, authorization, and appropriations measures. All other public bills and public resolutions are referred to the *House Calendar* (Rule XIII, clause 1(a)(2)). The House also maintains a *Private Calendar* (Rule XIII, clause 1(a)(3); and Rule XV, clause 5) for measures of a private character affecting individual persons or entities, and a *Calendar of Motions to Discharge Committees* (Rule XIII, clause 1(b); and Rule XV, clause 2) from further consideration of particular measures (see “Legislation Blocked in Committee” section for a discussion of the discharge motion).

The Senate only has two calendars: the Calendar of Business (commonly called the “Legislative Calendar”), and the Executive Calendar. Nominations and treaties are referred to the *Executive Calendar*. Legislation reported from committee are referred to the *Calendar of Business*, or placed on this calendar by unanimous consent. As discussed earlier, Rule XIV provides a procedure for placing measures on the Calendar of Business without reference to committee.

A measure commonly becomes eligible for floor consideration in both chambers once it has been placed on a calendar. The calendar number assigned to a measure indicates the chronological order the measure was placed on the calendar, not the order for floor consideration.

### Calling Up Measures

The scheduling of legislation for House floor action is the fundamental prerogative of the Speaker. Individual Representatives cannot easily circumvent, influence, or reverse leadership decisions about which measures should come to the floor. The most significant and controversial measures are usually made in order for floor consideration by a “special rule” passed by a majority vote of the House (see next section). Less controversial measures are often raised under the “suspension of the rules” procedure (Rule XV, clause 1) every Monday, Tuesday, and Wednesday and during the last six days of a session. On these “suspension days”(and at other times by unanimous consent or by special rule), the Speaker may recognize a Member to move to

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these procedures in U.S. Congress, Senate, *Riddick’s Senate Procedure*, S.Doc. No. 101-28, 101<sup>st</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 1992), 1608 p.

suspend the rules and pass a measure. A suspension motion must be approved by two-thirds of those present and voting. The House may also agree to take up a measure by unanimous consent, but does so much less frequently than the Senate.

House rules set aside specific days of the month when bills from the *Private Calendar* (always the first Tuesday, Rule XV, clause 5(a); also, the third Tuesday, Rule XV, clause 5(b)(1), at the Speaker's discretion) can be brought up for floor consideration. Legislation involving the District of Columbia can be raised on the second and fourth Mondays of each month (Rule XV, clause 4) sometimes referred to as "*District Days*." The *Calendar Wednesday* procedure (Rule XV, clause 6) reserves Wednesdays for the "call of committees," during which time committees can raise reported bills that have not been granted a special rule or otherwise made privileged for floor action. In today's House, Calendar Wednesday is usually dispensed with by unanimous consent. All these procedures require a simple majority for passage, except for correction measures which require a three-fifths vote. Certain "privileged" measures reported by the committees on Appropriations, Budget, House Administration, Rules, and Standards of Official Conduct can be called up at any time under House Rule XIII, clause 5(a). Rules governing privileged reports by the Committee on Rules are detailed under Rule XIII, clause 6.

The Senate Majority Leader has the authority to raise measures for Senate floor consideration. Most measures reach the Senate floor either by a simple unanimous consent request, or under a complex unanimous consent agreement (described in next section). The Majority Leader also can offer a debatable motion to proceed to the consideration of a measure. Before scheduling measures for floor action, the Majority Leader consults with the Minority Leader, appropriate committee chairmen, and individual Senators who have notified him of their interest in specific measures. Consultation with individual Senators is necessary because most measures are raised by unanimous consent.

A Senator or group of Senators can place a "hold" on the bringing up of measures. "Holds" are an informal custom in the Senate. Early in the 106<sup>th</sup> Congress, Senate Majority Leader Lott and Minority Leader Tom Daschle announced that all Senators, who wished to place a hold on any measure, must notify the sponsor and the committee of jurisdiction of their intentions before providing such notice in writing to the respective party leader.

## Special Rules vs. Complex Unanimous Consent Agreements

"Special rules" establish the parliamentary conditions governing House floor consideration of most major measures. The House Rules Committee reports a special rule (often referred to as a "rule") in the form of a simple resolution. The typical special rule provides a specific amount of time for general debate and determines whether or not amendments are in order. A rule may limit debate on specific amendments and waive points of order against specific provisions or amendments. Because special rules are "privileged" for floor consideration under Rule XIII, clause 6, they can be called up, debated, and voted upon at any time. Special rules must be agreed to by a majority vote of the House.

According to House precedents, the Rules Committee can report a special rule for a bill that is pending before a committee. The effect of this rarely-used authority is to discharge the bill from the committee. Conversely, Representatives can move to discharge the Rules Committee from considering a special rule after it has been before the committee for seven legislative days (see "Legislation Blocked in Committee" section for a discussion of the discharge motion).<sup>2</sup> The

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<sup>2</sup> Special rules are usually reported as original measures by the Rules Committee. Therefore, to attempt to discharge a

Calendar Wednesday procedure (see previous section) allows committees to call up measures they have reported, but which have not been granted a special rule.

In the Senate, complex unanimous consent agreements specify the parliamentary conditions governing floor consideration of major measures.<sup>3</sup> These agreements (sometimes referred to as “time agreements”) can limit debate time, structure the amendment process, and waive points of order against specific provisions or amendments. The agreements are negotiated by the Majority Leader, in consultation with the Minority Leader, committee chairmen, and interested Senators. These negotiations are conducted in private meetings or, less frequently, on the Senate floor. A unanimous consent agreement must be accepted by all Senators on the floor when the Majority Leader or his designee formally offers the agreement. The objection of one Senator prevents the agreement from taking effect. An individual Senator can then request the leadership to modify the unanimous consent agreement to accommodate his or her concerns. Complex unanimous consent agreements are printed in the Senate’s daily “Calendar of Business,” and in the *Congressional Record*.

## Legislation Blocked in Committee

Both chambers have procedures for calling up measures that have not been reported by a committee. In deference to each committee’s right to consider legislation, Representatives and Senators are generally reluctant to employ these procedures.

Members of the House may offer a motion to discharge a committee from considering a measure 30 days after the measure was referred to the committee (7 days for resolutions before the Rules Committee). If 218 Members then sign a discharge petition, the discharge motion is placed on the *Discharge Calendar* and can be called up on the second or fourth Mondays of each month. If the motion is adopted, a motion to call up the underlying measure for immediate consideration can then be offered. Most discharge motions do not attract the required 218 signatures, and few have been adopted since the discharge rule’s (Rule XV, clause 2) inception. Nevertheless, the act of filing a discharge petition, or threatening to do so, is sometimes used to prompt committee action on measures. The motion to suspend the rules and pass a measure is another procedure for raising unreported measures, but is rarely done over the objection of the relevant committee chairman. As discussed earlier, the two-thirds vote required for approving suspension motions means they are generally employed to call up noncontroversial measures.

It is easier to circumvent committees in the Senate than in the House, primarily because Senators generally have the right to offer non-germane amendments (commonly known as “riders”) to measures being considered on the floor.<sup>4</sup> For example, a Senator could offer an amendment containing the text of a bill blocked in committee. A Senator also could use Rule XIV (discussed earlier) to bypass a committee that has not reported a particular measure. In this situation, the Senator would reintroduce the bill, demand two readings, and then object to the second reading. Under Rule XIV, the measure would be placed directly on the Calendar of Business. Other Senate procedures for bypassing committees, such as the motion to discharge a committee and the

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special rule from this committee, a Representative must first introduce a special rule in the form of a simple resolution (the resolution cannot provide for the consideration of more than one bill or resolution). The Representative can move to discharge this resolution from the Rules Committee after seven legislative days have passed.

<sup>3</sup> Simple unanimous consent agreements, which are offered orally, are used for noncontroversial measures and routine floor business (e.g., to “rescind” a quorum call).

<sup>4</sup> There are four instances when germaneness of amendments is required in the Senate. See the “Amending Measures” section for more information.

motion to suspend the rules, are employed so infrequently they are not discussed here. Senate committees are sometimes discharged by unanimous consent.

**Table I. Scheduling and Raising Measures: Comparison of House and Senate Procedures**

House	Senate
Four calendars (Union, House, Private, Discharge)	Two calendars (Legislative and Executive)
Special days for raising measures <sup>a</sup>	No special days
Scheduling by Speaker and majority party leadership in consultation with only selected Representatives	Scheduling by majority party leadership in broad consultation with minority party leaders and interested Senators
No practice of “holds”	Individual Senators can place “holds” on the raising of measures, within limitations
Powerful role of Rules Committee	No committee with equivalent role
<i>Special rules</i> (approved by majority vote) govern floor consideration of most major legislation	<i>Complex unanimous consent agreements</i> (approved by unanimous consent) govern floor consideration of major measures
Non-controversial measures usually approved under <i>suspension of the rules</i> procedure	Non-controversial measures approved by <i>unanimous consent</i>
Difficult to circumvent committee consideration of measures	Easier to circumvent committee consideration of measures

- a. There are special days for calling up bills under the suspension of the rules and Calendar Wednesday procedures, for raising measures from the Private Calendar, and for bringing up legislation involving the District of Columbia.

## Floor Consideration

### Presiding Officer and Recognition Practices

The Speaker of the House is both the leader of the majority party and the chamber’s presiding officer. In this dual position, the Speaker uses his parliamentary and political powers to govern House floor proceedings. He has the discretionary power to recognize, or not recognize, Members to speak. When a Representative seeks recognition, the Speaker will frequently ask: “For what purpose does the Gentleman (Gentlewoman) rise?” The Speaker does so in order to determine what business the Member wants to conduct. If the business does not have precedence (e.g., a special order speech), the Speaker can usually deny recognition. The Speaker does adhere to some established House practices of recognition, such as giving Members of the committee reporting a bill priority recognition for offering floor amendments.

A Speaker has the right to vote and to debate from the floor, if he wishes. The extent to which this right is exercised varies from Speaker to Speaker. The Speaker presides over House floor proceedings<sup>5</sup>, but not over meetings of the Committee of the Whole (formally, the Committee of the Whole House on the State of the Union). He appoints a majority party Representative to preside as chairman of the Committee of the Whole. The House resolves into the Committee of

<sup>5</sup> In his absence, the Speaker appoints a majority party Representative to preside over meetings of the House as “Speaker pro tempore.”



the Whole, a committee to which all Members belong, to consider measures that will be amended (see “Amending Measures” section). A non-partisan Parliamentarian, an officer of the House, is always present to advise the presiding officer on rulings and precedents.

The Vice President of the United States is the Senate’s official presiding officer (formally, “President of the Senate”), as provided in Article I of the Constitution. The Constitution also requires that a “President pro tempore” preside over the Senate in the Vice President’s absence. The President pro tempore, in modern times the most senior Senator of the majority party, is elected by a majority vote of the Senate. In practice, the Vice President and the President pro tempore seldom preside over Senate proceedings. The Vice President typically presides when he might be required to break a tie vote on an important administration priority. Most of the time, the President *pro tempore* exercises his right under the Senate’s standing rules (Rule 1) to appoint a Senator as “Acting President pro tempore.” This senator, in turn, can appoint another Senator to serve as Acting President pro tempore. As a result, the duties of presiding officer are routinely filled by a rotation of junior and first-term Senators of the majority party who preside for approximately one hour at a time.

Since the Senate’s official presiding officer is not a member of the body, the presiding officer position does not have the same powers to control floor proceedings as those held by the Speaker of the House. The Senate’s presiding officer may speak only if granted permission to do so by the unanimous consent of the membership, and he may vote (as noted above) only to break a tie.<sup>6</sup> He also must recognize the first Senator standing and seeking recognition. When several Senators seek recognition at the same time, the Senate’s precedents give preferential recognition to the Majority and Minority Leaders, and the majority and minority floor managers, in that order. The Senate’s presiding officer never interrogates Senators about their purpose for seeking recognition. A non-partisan Senate Parliamentarian is always present to advise on rulings and precedents.

## Appealing Rulings of the Chair

By House tradition, the presiding officer’s rulings on points of order raised by Members are seldom appealed. As a result, the House has a relatively large and consistent body of precedents based on rulings of the chair. If the chair’s ruling is appealed, the full House decides by majority vote whether to sustain or overrule this ruling. Because this vote is viewed as a serious test of the chair’s authority, it is typically settled along party lines, with the majority sustaining the chair. In contrast to the Senate, there are only a few situations when the House’s presiding officer does not rule on points of order.<sup>7</sup>

In the Senate, the presiding officer’s rulings on points of order raised by Senators are frequently appealed. The full Senate votes on whether to sustain or overrule the ruling. Under Rule XX, the presiding officer has the option of submitting any question of order to the full Senate for a majority vote decision. He is required to submit questions of order that raise constitutional issues, and those concerning the germaneness or relevancy of amendments to appropriations bills, to the full Senate. Senate votes on appealed rulings of the chair, and on points of order submitted to the full body, often turn on the political concerns of the moment rather than on established Senate practices and procedures. As a result, the Senate has a smaller and less consistent body of precedents than does the House. Yet, because the Senate usually operates informally, it is a more precedent- than rule-regulated institution.

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<sup>6</sup> The Vice President may vote to break a tie; a Senator serving as presiding officer retains his right to vote in all cases.

<sup>7</sup> For example, the chair does not rule on points of order established under the Unfunded Mandates Reform Act of 1995 (P.L. 104-4).

## Debate Time Restrictions

House debate nearly always takes place under some form of time restriction. There is the “one-hour” rule for debate in the House (Rule XVII, clause 2), and the “five-minute” rule during the amendment process in the Committee of the Whole (Rule XVIII, clause 5(a)). Debate is limited to forty minutes for bills considered under the suspension of the rules procedure. Special rules can impose time restrictions on debate, and rule-making provisions in statutes often limit debate on certain types of measures such as budget resolutions.

Time restrictions make it difficult for individual Representatives to get debate time on the floor. When Members are accorded debate time, they rarely receive more than two to five minutes. Representatives can be recognized to speak for up to five minutes during the “morning hour” debates before legislative business commences on Mondays and Tuesdays, for “one-minute” speeches (at the Speaker’s discretion and usually at the beginning of the legislative session), and for “special order” speeches of a specified length (ordinarily at the end of the day).

In the Senate, individual Senators have the right to unlimited debate. Senators also can seek unanimous consent to speak out of turn on another subject, or to interrupt proceedings with an unrelated matter. Unanimous consent is usually granted. Senators may use their right to extended debate and employ other parliamentary maneuvers to delay floor action, a tactic known as a “filibuster.” The threat of a filibuster, particularly at the end of a session or near a scheduled recess, can be used to try to extract concessions from the Senate leadership.

To be sure, it would be impossible for the Senate to act on legislation in a timely fashion if Senators always exercised their right to extended debate. For this reason, the Senate often agrees to debate restrictions as set forth in complex unanimous consent agreements. Floor debate on certain types of measures, such as budget resolutions, is often limited by rule-making provisions in statutes, as is the case in the House.

## Ending Debate

Representatives can offer a *motion for the previous question* to end debate *in the House* (Rule XIX, clause 1(a)). Adoption of this motion by a majority vote ends debate on the pending question, prevents the offering of any further motions and amendments, and brings about an immediate vote on approving the pending question. This motion cannot be offered when the House meets in the Committee of the Whole.

In the *Committee of the Whole*, Representatives may offer a *motion to close or limit debate* on the pending question (Rule XVIII, clause 8). The motion may propose to end debate immediately or when a specified time expires. Adoption of this motion by a majority vote only closes or limits debate on the pending question; it does not preclude Members from offering additional motions or amendments (although they may be precluded from debating them) and does not produce an immediate vote on the pending question. Members also may ask unanimous consent to end debate on pending amendments in Committee of the Whole. When a special rule establishes time limitations on general debate or on the debate of specific amendments, debate ends when these time limitations expire.

Senate debate usually ends when a Senator yields the floor and no other Senator seeks recognition, or when a previously-established time limitation (e.g., in a complex unanimous consent agreement or a rule-making statute) expires. The Senate’s adoption of a *motion to table* by majority vote will end debate on a pending measure, motion, or amendment. The practical effect of adopting this motion, however, is to reject the pending question. The Senate can only

resume consideration of the tabled matter by unanimous consent. Usage of the motion to table is generally reserved for cases when the Senate is prepared to reject the pending question.

A *cloture motion* signed by 16 Senators can be filed to end extended debate on a measure, motion, or amendment. This motion is filed when informal negotiations cannot end a filibuster (discussed in previous section). Once the cloture motion is adopted by three-fifths of the Senate, debate can only continue for a maximum of 30 more hours (called the “post-cloture” period). At the end of the post-cloture period, debate time expires or has been yielded back, and the Senate votes on the underlying matter.

## Amending Measures

The House typically meets in the Committee of the Whole to consider legislation that will be amended. The House resolves itself into the Committee of the Whole by a motion of the majority floor manager, or pursuant to the provisions of a special rule. The rules of the Committee of the Whole expedite floor consideration of measures. Consideration begins with a designated period of time for general debate, followed by the offering of amendments. Legislation is amended in an orderly fashion (i.e., by section or paragraph, or under the terms specified in a special rule). Members can only offer amendments to the part of the bill that has been read, or designated, for amendments. Any deviation from this orderly sequence requires unanimous consent or a provision in a special rule. Amendments must always be germane, unless a special rule permits the offering of specified, non-germane amendments.

The principles governing the order of voting on amendments in the Committee of the Whole are graphically displayed in one “basic amendment tree.”<sup>8</sup> When the Committee of the Whole approves amendments, it does not actually amend the bill’s text. The Committee of the Whole, similar to a House standing committee, reports the measure back to the House with the amendment[s] it adopted. Such amendment[s] must then be approved by the full House.

The Senate (the chamber does not have a Committee of the Whole) considers and amends legislation in a less structured manner than the House. As a result, the sequence and duration of floor consideration is less predictable in the Senate. When recognized, Senators can decide whether they wish to debate the bill in general or offer an amendment. Amendments to the bill may be proposed in any order. At times, the Senate agrees to a complex unanimous consent agreement that allows only specific amendments to be offered and limits the time for debate on each amendment. However, even under unanimous consent arrangements, it is rare for the Senate to impose a specific sequence for debate and amendment. Four amendment trees depict the principles of precedence for offering and voting upon amendments in the Senate.<sup>9</sup>

Germaneness of amendments is not required in the Senate, except in four specific instances: 1) if a unanimous consent agreement so requires; 2) in the post-cloture period (see previous section); 3) if a rule-making provision in a statute so requires (e.g., provisions of the Congressional Budget and Impoundment Act of 1974 governing consideration of budget resolutions and reconciliation bills); and 4) if the underlying measure is a general appropriations bill.

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<sup>8</sup> See *House Practice: A Guide to Rules, Precedents and Procedures of the House*, 108<sup>th</sup> Cong., 1<sup>st</sup> sess. (Washington: GPO, 2003), pp. 27-31.

<sup>9</sup> See *Riddick’s Senate Procedure*, pp. 72-95.

## Quorum Calls

The Constitution requires that a quorum—a simple majority of the membership—be present for the House (218) and the Senate (51) to conduct business. When the House meets in the Committee of the Whole, a quorum of 100 Members is required. Both chambers typically assume that a quorum is present unless it can be demonstrated otherwise.

The rules of the House restrict when Members can make a point of order that a quorum is not present in the House or in the Committee of the Whole. This point of order is generally permitted only in connection with record votes. In recent years, House quorum calls have typically lasted 15-17 minutes.

Senate quorum calls are in order at almost any time. Quorum calls made for the purpose of obtaining the presence of a majority of Senators are called “live quorums.” More commonly, however, a Senator will “suggest the absence of a quorum” for purposes of constructive delay. This type of quorum suspends action on the Senate floor without requiring the Senate to recess or adjourn. This pause in floor action provides time for informal negotiations to take place, and for absent Senators to reach the floor. The Clerk slowly calls the roll until a Senator asks unanimous consent to “rescind,” or dispense with, the quorum call. There is no time limit on this type of quorum call.

## Voting Procedures

The House and Senate each have three main types of votes: *voice*, *division*, and *record*. Record votes include all those in which the names of Members voting on each side are individually recorded, and the cumulative totals of yeas and nays are compiled. The Senate refers to record votes as “yea and nay votes” or “rollcall votes;” in the House, record votes include both “yea and nay votes” and recorded votes.”

In each house, most questions are first put to a voice vote. For voice votes, the chair first asks those in favor to respond “Aye,” and then those in opposition to respond “No” (House Rule I, clause 6).<sup>10</sup> The chair then announces which side has prevailed. Before he or she does so, a Member may ask for a division or record vote. For division votes (also called “standing votes”), those in favor stand up and are counted by the chair, followed by those in opposition. The chair then announces the result (House Rule XX, clause 1(a)). Division votes in the Senate are rare, they are sometimes taken by Senators raising their hands instead of rising, and the chair does not announce the number voting on each side.

The two chambers differ in their conduct of record votes. After a voice or division vote has taken place in the House, but before the final result had been announced, Representatives can demand either a “yea and nay vote” or a “recorded vote,” except that a yea and nay vote may not be demanded in Committee of the Whole. The demand for a yea and nay vote must be supported by one-fifth of those present, or the vote may be ordered automatically if a Member objects to a pending vote on the ground that a quorum is not present. The demand for a recorded vote must be supported by one-fifth of a quorum in the House (a minimum of 44 Members), or by 25 Members in Committee of the Whole (House Rule XX, clauses 1(b), 6(a); Constitution, Article I, section 5).

Record votes in the House normally take place by electronic device. Members vote with electronic voting cards and their votes are displayed on an electronic board in the chamber. While a vote is taking place, Members preparing to vote often look at the electronic board to see how

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<sup>10</sup> No Senate rule explicitly governs voice or division votes. Also counted as a voice vote is Senate action on which the chair declares a measure agreed to “without objection.”

other Members voted. The majority and minority party floor whips also use their board to carry out their vote-counting responsibilities. House rules (Rule XX, clauses 2(a), 9) require a minimum 15-minute voting period for record votes, except that in specified situations (e.g., when a record vote immediately follows a quorum call in the Committee of the Whole) the presiding officer may reduce the time to not less than five minutes. The voting period may also be extended at the discretion of the chair. The chair also has the authority to postpone and cluster certain votes, such as those ordered on motions to suspend the rules (Rule XX, clause 10).

The Senate does not use an electronic voting system to conduct rollcall votes. Under Rule XII, the Clerk calls the names of all Senators in alphabetical order (formally, “calls the roll”). Senators come to “the well” of the Senate to vote, and the Clerk announces how each Senator voted.<sup>11</sup> Senators can track how colleagues have voted by checking the tallies kept by majority and minority floor staff. A Senator’s demand for a rollcall vote must be supported by a minimum of 11 senators, which is one-fifth of the minimal quorum for doing business (51). In general, this requirement is casually enforced. A 15-minute period for rollcall votes is usually established in a unanimous consent agreement adopted on the opening day of a new session of Congress. The party floor leaders can extend this voting time period at their discretion.

Senators can, and usually do, ask for a rollcall vote at any time a question is pending before the Senate. They do not have to wait for a voice or division vote to first take place. For example, a Senator offering an amendment can ask for a rollcall vote even before debate on the amendment begins. When this happens, the yeas and nays are ordered after the Clerk confirms that a sufficient second supports the request. The ordering of the yeas and nays does not bring about an immediate vote. In fact, most rollcall votes in the Senate do not take place immediately upon being ordered.

## Adjournment and Legislative Days

The House routinely adjourns at the end of a day’s proceedings. As a result, the House’s calendar days and legislative days are almost always the same. The exceptions are when the House is in session past midnight and in a rare procedural situations.

The *motion to adjourn* in the Senate ends the day’s proceedings and creates a new legislative day when the chamber next convenes. A *motion to recess*, however, keeps the Senate in the same legislative day. This means that a legislative day in the Senate can continue for many calendar days. At times, there are procedural advantages for the Majority Leader to keep the Senate operating in the same legislative day. In doing so, he avoids having to conduct some routine business required on new legislative days. Senators might otherwise use this routine business for purposes of delay. At other times, there may be procedural advantages for the Majority Leader to create a new legislative day by adjourning. At the beginning of a new legislative day the motion to proceed to consider a measure is non-debatable. This motion is fully debatable at any other time, thus creating an opportunity for a filibuster.

**Table 2. Floor Consideration: Comparison of House and Senate Procedures**

House	Senate
Presiding officer has <i>considerable</i> discretion in recognizing Members	Presiding officer has <i>little</i> discretion in recognizing Senators

<sup>11</sup> Under a standing order (rarely enforced), any Senator may demand that Senators vote from their desks.

Rulings of presiding officer <i>seldom</i> challenged	Rulings of presiding officer <i>frequently</i> challenged
Debate time always restricted	Unlimited debate; <sup>a</sup> individual Senators can filibuster
Debate ends by <i>majority vote</i> in the House and in the Committee of the Whole	<i>Super-majority</i> vote required to invoke cloture; up to 30 hours of post-cloture debate allowed <sup>b</sup>
Most major measures considered in Committee of the Whole	No Committee of the Whole
Number and type of amendments often limited by special rule; bills amended by section or title	Unlimited amendments; bills generally open to amendment at any point
Germaneness of amendments required (unless requirement is waived by special rule)	Germaneness of amendments <i>not</i> required (except in four instances)
Quorum calls usually permitted only in connection with record votes	Quorum calls in order almost any time; often used for purposes of constructive delay
Record votes by electronic device; can be requested only after voice or division vote is completed	No electronic voting system; rollcall votes can be requested almost any time
House routinely adjourns at end of each legislative day	Senate often <i>recesses</i> instead of adjourning; legislative days can continue for several calendar days

- a. Except when complex unanimous consent agreements or rule-making provisions in statutes impose time restrictions.
- b. Adoption of the motion to table by majority vote also ends Senate debate. Usage of this motion, however, is generally reserved for cases when the Senate is prepared to reject the pending question. See “Ending Debate” section.

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