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Introducing a Senate Bill or Resolution

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Introducing a Senate Bill or Resolution

Authoring and introducing legislation is fundamental to the task of representing voters as a U.S. Senator. Part of what makes the American political process unique is that it affords all Senators an ability to propose their own ideas for chamber consideration. By comparison, most other democratic governments around the world rely on an executive official, often called a premier, chancellor, or prime minister, to originate and submit policy proposals for discussion and enactment by the legislature. Legislators serving in other countries generally lack the power to initiate legislative proposals of their own.

In the American political system, ideas and recommendations for legislation come from a wide variety of sources. Any number of individuals, groups, or entities may participate in drafting bills and resolutions, but only Senators may formally introduce legislation in the Senate, and they may do so for any reason.

When a Senator has determined that a bill or resolution is ready for introduction, it can be delivered to the bill clerk's desk on the chamber floor when the Senate is in session. The sponsor must sign the measure and may attach the names of any original cosponsors on a separate form. Cosponsors do not sign the bill. There is no Senate rule that introduced bills and resolutions must be prepared by the Senate Office of the Legislative Counsel, but the office plays an important role by providing Senators and staff, at their request, with drafts of legislation. Use of the office by Senators and staff is nearly universal.

Once introduced, the Senate Parliamentarian, acting on behalf of the presiding officer, refers legislation to committee based primarily on how its contents align with the subject matter jurisdictions of committees established in Rule XXV. Referral to multiple committees is rare in the Senate due to Rule XVII, which states that a measure is referred to the committee with "jurisdiction over the subject matter which predominates in such proposed legislation."

This report is intended to assist Senators and staff in preparing legislation for introduction. Its contents address essential elements of the process, including bill drafting, the mechanics of introduction, and the roles played by key Senate offices involved in the drafting, submission, and referral of legislation. Statistics on introduced bills and resolutions are presented in the final section to illustrate patterns of introduction in recent Congresses.

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Developing Ideas for Legislation

“Ideas can come from anywhere,” a scholar of American politics once wrote.¹ To be sure, ideas and recommendations for legislation come from a wide variety of sources, such as individual Senators; committees and other Senate working groups; legislative staff; party and chamber leaders; executive branch agencies and the White House; states and localities; members of the media; citizens; and interest groups. Any or all of these individuals or entities may participate in drafting legislation, but only a Senator may formally introduce legislation in the Senate. Some common considerations taken into account when drafting a bill include the following:

- **What problem does the bill seek to address?** Understanding the source of a problem is necessary in order to properly address it. An abundance of information is available to Senators in the form of reports, studies, and presentations offered by a wide range of individuals, groups, and organizations, including CRS. Soliciting expert testimony in the context of a committee hearing is another common method by which the Senate gathers relevant information for use in policymaking.²
- **To what committee is it likely to be referred?** Committee referral can matter because one committee might be especially receptive to the proposed legislation in comparison to another committee. Senators may also prefer that their bill be referred to a committee on which they serve in order to ensure continued involvement at the committee stage of proceedings.
- **Will the bill attract cosponsors?** Cosponsorship conveys a Senator’s support for a measure, so bills that attract many cosponsors could be seen as enjoying broad support within the chamber. A measure with many cosponsors, especially if they include Senators from both parties, could encourage the relevant committee chair to take some action on the legislation, such as hold hearings on it.
- **Does it have bipartisan appeal?** Senate rules tend to favor deliberation over decision, so building a coalition of support for a proposal can take time. With few limits on Senate debate, reaching a final vote on legislation often requires a supermajority of 60 Senators to bring debate to a close, so some amount of bipartisan cooperation usually is needed to secure final passage.³ Measures that are limited in scope but have broad bipartisan appeal may be passed (or “cleared”) by unanimous consent with minimal floor time expended. The Senate’s clearance system (or “hotline”) can facilitate swift action on

¹ John Kingdon, *Agendas, Alternatives, and Public Policies* (Boston: Little, Brown and Company, 1984), p. 75. Kingdon’s account of the policymaking process offers insights into why some ideas but not others make their way into law.

² For information on how to prepare for a committee hearing, see CRS Report 98-489, *Senate Committee Hearings: Preparation*, by Valerie Heitshusen.

³ Senate Rule XXII (cloture) provides the only formal mechanism (absent unanimous consent) to end debate on an issue and bring it to a vote. If 60 or more Senators (assuming no more than one vacancy) vote to invoke cloture on a bill, then consideration is capped at 30 additional hours and a final vote is scheduled to take place at the conclusion of that time. Information on the operation of cloture can be found in CRS Report 98-425, *Invoking Cloture in the Senate*, by Christopher M. Davis. On floor procedures more generally, see CRS Report 96-548, *The Legislative Process on the Senate Floor: An Introduction*, by Valerie Heitshusen.

noncontroversial proposals, but this pathway can be blocked by even a single objection.⁴

- **What are the budgetary implications?** The Senate places a number of restrictions on legislation with budgetary consequences. For instance, if a proposal adds to the federal deficit, it may be subject to a point of order on the chamber floor for violating congressional budget rules (many of which are codified in the Congressional Budget Act of 1974).⁵ Support for a measure may also hinge on how its costs are paid for. Senators may agree about the merits of a bill but disagree with how its provisions are funded.
- **Should companion legislation be introduced in the House?** To become law, a bill or joint resolution must pass both houses of Congress in identical form (with the same text and bill number) and be signed by the President.⁶ For this reason, Senate sponsors sometimes encourage their allies in the House to introduce identical or similarly worded legislation into that body to encourage bicameral consideration.⁷ Companion bills might also attract wider public and Member attention to the issues addressed in the legislation.
- **Is the measure best introduced at the beginning, in the middle, or toward the end of a Congress?** Timing the introduction of a measure can be important. Comprehensive legislation is likely to require a great deal of time to work through, both in committee and on the floor. An early introduction will give the Senate more time to examine the measure’s provisions. Advantage might also be gained by being the first to address an issue. Those who move first tend to attract media attention and may be seen by their colleagues as exercising leadership in that particular policy area.
- **Can benefit be gained by a delayed introduction?** Strategic delay is another option. This approach might provide more time for an individual or committee to study the issue and build support for a preferred solution. To be sure, many bills do not follow a linear (or “regular order”) legislative process—introduction, consideration in committee, and arrival on the floor for further debate and amendment, with committee and floor proceedings on the bill taking place in the House as well.⁸ For example, a legislative proposal that had languished in committee might suddenly be taken up in the Senate because it deals with an unfolding crisis or emergency.

⁴ The “hotline” is a special telephone and email system that connects Senate offices to the majority or minority cloakrooms. Senate leaders use the hotline to transmit notifications and unanimous consent requests regarding the legislative agenda and schedule.

⁵ For information on the enforcement of budget rules, see CRS Report R47413, *Points of Order in the Congressional Budget Process*, by James V. Saturno and Megan S. Lynch. For an overview of the federal budget process, see CRS Report R46240, *Introduction to the Federal Budget Process*, by James V. Saturno.

⁶ Only bills and joint resolutions can make or change law, while simple and concurrent resolutions are used to address matters that are internal to one or both chambers of Congress. For examples of how each is used, see CRS Report R46603, *Bills, Resolutions, Nominations, and Treaties: Characteristics and Examples of Use*, by Jane A. Hudiburg.

⁷ For information on methods to resolve bicameral differences, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki.

⁸ For different perspectives of what might constitute “regular order” lawmaking, see CRS Report R46597, *The “Regular Order”: A Perspective*, by Walter J. Oleszek.

Drafting Legislation

There is no Senate rule that requires introduced bills and resolutions to be prepared by the Office of the Legislative Counsel, but the office plays an important role by providing Senators and staff, at their request, with drafts of legislation. Use of the office by Senators and staff is nearly universal. Its staff attorneys are experts in legislative drafting, and they focus almost exclusively on policy issues within their areas of expertise. Legislative attorneys are often assigned to serve a specific committee as a kind of nonpartisan, shared staff. They work closely with committee members and staff to ensure that a bill's language and form match the intent of its sponsor and adhere to drafting rules and linguistic traditions of the Senate.

Several drafts may be required before a measure is ready for formal introduction. Those drafting legislation may seek assistance from the Office of the Legislative Counsel at any stage of the process. All communications with the office are treated as confidential. The office is located in Room 668 of the Dirksen Senate Office Building and can be reached at extension 4-6461 or by sending an email request to Receptionist@slc.senate.gov.⁹

The number of requests to draft bills and amendments has nearly doubled since the early 2000s, from roughly 20,000 requests handled by the office during the 109th Congress (2005-2006) to more than 40,000 in more recent Congresses. To guide the management of its workload, the Committee on Rules and Administration has established a system for prioritizing requests received by the office. Measures currently in conference committee receive the highest priority, followed by amendments to measures pending on the Senate floor. Measures being considered in committee are prioritized next, followed by proposals drafted at the request of individual Senators. Within each of these categories, priority is given to requests in the order they are received. Given the volume of its work, it is advisable to give the office as much advance notice as possible when making a drafting request. Depending on the nature of the policy area, the workload of the office, and other factors, it can take substantial time to draft legislation, especially if it addresses complex issues or involves multiple subject areas.¹⁰

Seeking Cosponsors

When Senators introduce a measure, they commonly attach a form listing the names of cosponsors, which is optional.¹¹ Cosponsorship signifies a Senator's support for the proposal. Prior to its introduction, a Senator may cosponsor the measure by contacting the sponsor of the legislation and requesting his or her name be added in support of the bill or resolution. Initial (or "original") cosponsors can be added until the measure is presented to the bill clerk in the Senate chamber. Thereafter, unanimous consent is required to include additional cosponsors on the measure. There is no limit on the number of cosponsors a measure may attract. Cosponsors do not sign the bill, but the sponsor is required to sign it.

A "Dear Colleague" letter sent to most or all Senators is a common technique for informing Senators about the merits of a particular measure, and for soliciting support for it. Typically, these letters briefly state the issue addressed by the measure, its significant features, and an appeal to

⁹ Additional information on the Office of the Legislative Counsel and the drafting services it provides can be found on the office's website at <http://www.slc.senate.gov/>.

¹⁰ Guidelines for expediting requests for drafting assistance can be found on Webster, the Senate's internal website, at <http://webster.senate.gov>. Only Senate offices have access to Webster.

¹¹ Cosponsorship forms are available for download in portable document format (PDF) at <http://webster.senate.gov>.

become a cosponsor. These letters almost always include the name and contact information of a staff aide assigned to manage cosponsorship requests.¹²

Introducing a Bill or Resolution

At the beginning of each new Congress, the Senate traditionally adopts a standing order allowing Senators to introduce measures at any time the chamber is in session by presenting them to the bill clerk seated at the desk on the Senate floor.¹³ A measure must be signed by the sponsoring Senator in the top right hand corner before it can be introduced. Printing should be one-sided, and staff contact information should be written on the back of the last page of the bill. There is no limit on the number of measures a Senator may introduce, and Senators may propose legislation for any reason.

Senators who wish to make a statement on the measure may deliver their remarks during morning business (which is common) or at another point during the day, or they may ask unanimous consent to insert their statement in the *Congressional Record*.¹⁴ These statements appear in the “Statements on Introduced Bills and Joint Resolutions” section. By unanimous consent, the text of the measure is also typically printed in the *Record*.

Senators and staff may also consider devising an attention-grabbing title for their legislation, such as the USA-Patriot Act (“Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism”). Such titles might attract media attention and notice by other lawmakers.

A Senator can object to the introduction of a bill or joint resolution by another Senator, although this rarely occurs. If objection is heard, the bill may be introduced on the following legislative day (or anytime thereafter) as a matter of right under paragraph 1 of Rule XIV.

Committee Referral

Referral decisions are made by the Senate Parliamentarian acting on behalf of the presiding officer. Referral occurs primarily on the basis of how the text of the measure connects to the jurisdictional statements of committees set forth in Rule XXV. Under the provisions of Rule XVII, a measure is referred to the committee with “jurisdiction over the subject matter which predominates in such proposed legislation.”

The word “predominates” in Rule XVII implies a majority standard by which the subject matter of a bill is determined, which at times can arouse inter-committee disagreements, since only a single subject can be considered predominant. This “predominance” standard of Rule XVII means that multiple referral occurs only occasionally in the Senate, and in almost all cases is

¹² See CRS Report 98-279, *Sponsorship and Cosponsorship of Senate Bills*, by Mark J. Oleszek.

¹³ *Congressional Record*, daily edition, vol. 169 (January 3, 2023), p. S8. Most measures are introduced in this fashion. Senators may also introduce measures from the floor as part of “morning business” under Senate Rule VII. In practice, however, morning business seldom occurs as provided in Rule VII. Instead, on most days, the Senate arranges by unanimous consent a period for transacting routine morning business to occur at some later point.

¹⁴ Morning business in this context refers to the common practice of dedicating a period of time during the day for Senators to speak on the floor on any topic for up to 10 minutes. When Senators and staff refer to “morning business,” it is usually in this context. Senators recognized on the floor may also request unanimous consent to speak “as if in morning business,” which is to say, on a topic of their choosing.

made by unanimous consent or standing order.¹⁵ When referring a measure to committee, the Parliamentarian might begin by asking two related questions: “What is this measure mainly about?” and “What committee has subject matter jurisdiction that corresponds most closely to the measure’s main subject?”

Senate Rule XIV requires that all bills and resolutions be read twice before they are referred to committee, but rarely is this requirement strictly adhered to.¹⁶ Measures are typically referred immediately if there is no objection, and this is what occurs in the large majority of cases. (House bills and resolutions received by the Senate are often referred immediately as well.) A procedure in Rule XIV allows an introduced (or House-received) bill or joint resolution to be placed directly on the calendar of business without first being referred to a standing committee.¹⁷

Most measures are introduced by individual Senators, but Senate committees may also report an “original” bill for chamber consideration. As Senate Rule XXV states, standing committees have “leave to report by bill or otherwise on matters within their respective jurisdictions.” This means that committees do not have to wait for measures to be referred to them in order to act.

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This report was originally prepared by former CRS Specialist Richard C. Sachs. Congressional clients may direct any inquiries to the current author.

¹⁵ Section 3(a) of Senate Rule XVII allows a measure to be referred to multiple committees by joint motion of the majority and minority leaders (or their designees), but this motion seems to have never been used.

¹⁶ The first and second readings occur on the title of a measure; legislative text is not read in full unless the Senate orders otherwise.

¹⁷ For more 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.

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