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# **Bypassing Senate Committees: Rule XIV and Unanimous Consent**

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## Summary

Most bills and joint resolutions introduced in the Senate, and many House-numbered bills and joint resolutions received by the Senate after House passage, are referred to committee. Some bills and joint resolutions, however, are not referred to committee. This report examines the alternative procedures and actions that the Senate uses to bypass committee consideration of bills and joint resolutions. It also provides examples of how the Senate uses these alternative procedures and actions to facilitate consideration and passage of some bills and joint resolutions.

Provisions of Senate Rule XIV and the practice of unanimous consent allow the Senate to bypass a measure's referral to committee, whether that measure might be major or noncontroversial. Rule XIV requires measures to be read twice before referral to committee. By objecting after the second reading of a measure to any further proceeding on it, a Senator, normally the majority leader, acting on his own initiative or at the request of any Senator, prevents a bill or joint resolution's referral to committee. The measure is placed directly on the Senate Calendar of Business. Alternately, unanimous consent is also used to bypass referral and place measures directly on the calendar.

Although placing a measure directly on the calendar may facilitate calling it up later for consideration on the Senate floor, placement on the calendar does not guarantee floor consideration.

A bill or joint resolution, in addition, might be neither referred to committee nor placed on the calendar: a measure might be held at the desk (of the presiding officer)—either simply being at the desk in the absence of any proceeding on it or after being ordered by unanimous consent to be held at the desk. This status has been applied to both major and noncontroversial measures.

Unanimous consent may be used to truncate a committee's consideration of a measure referred to it: a measure might be referred to a committee but then the committee by unanimous consent of the Senate is discharged from further consideration of the measure.

The Senate regularly uses unanimous consent to consider and pass noncontroversial legislation that was placed directly on the calendar, that is at the desk (neither placed on the calendar nor referred to committee), or that has been discharged from committee.

One purpose of using any of the means of bypassing committee referral or truncating committee consideration of a measure is to facilitate a measure's Senate consideration. The Senate leadership might use one of two informal processes, called *clearance* and *hotlining*, to determine if any Senator would object to a specific bill or joint resolution being considered and possibly passed by unanimous consent.

This report does not examine procedures applicable to concurrent and simple resolutions, treaties, or nominations. Nor does it examine the use of a germane, relevant, or nongermane amendment instead of a bill or joint resolution. This report will not be updated again in the 115<sup>th</sup> Congress unless Senate procedures change.

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## Introduction

When a Senator introduces a bill or joint resolution, the measure is usually referred to committee, pursuant to provisions of Senate Rules XIV, XVII, and XXV. When the House informs the Senate that it has passed a bill or joint resolution that was introduced in the House, and the Senate receives the measure, the measure is also often referred to a Senate committee.<sup>1</sup>

Senate Rule XIV, paragraph 2 requires that bills and joint resolutions have three readings before passage, and that they be read twice before being referred to committee.<sup>2</sup> Although a Senator may demand (under paragraph 2) that the readings occur on three different legislative days, bills and joint resolutions may be read twice on the same day “for reference” (referral) if there is no objection (under paragraph 3). Most bills and joint resolutions are read twice “without any comment whatsoever from the floor”<sup>3</sup> and referred to committee on the same day that they are introduced by a Senator or received from the House.<sup>4</sup>

Senate Rule XVII, paragraph 1 states that a measure should be referred to the committee “which has jurisdiction over the subject matter which predominates....” Rule XXV contains the jurisdictions of the Senate’s standing committees. These rules and the precedents from referral decisions based on them guide the referral of measures. There also exist agreements between committees that might govern the referral of certain bills and joint resolutions.<sup>5</sup>

Under Rule XVII, paragraph 1, the presiding officer formally refers bills and joint resolutions; in practice, the parliamentarian refers measures in behalf of the presiding officer. The introduction

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<sup>1</sup> Senate rules contain procedures for the processing of concurrent and simple resolutions, which are not covered in this report. See especially Senate Rule XIV, para. 6. Treaties and nominations are also not discussed in this report. Regarding treaties, see Senate Rule XXX and U.S. Congress, Senate Committee on Foreign Relations, *Treaties and Other International Agreements: The Role of the United States Senate*, committee print, prepared by Congressional Research Service, 106<sup>th</sup> Cong., 2<sup>nd</sup> sess., January 2001, S.Prt. 106-71 (Washington, DC: GPO, 2001), available at <http://www.gpo.gov/fdsys/pkg/CPRT-106SPRT66922/pdf/CPRT-106SPRT66922.pdf>. Regarding nominations, see Senate Rule XXXI and CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki.

<sup>2</sup> The “third reading” occurs after Senate consideration of a measure and before the vote on final passage. See U.S. Congress, Senate, *Riddick’s Senate Procedure*, S.Doc. 101-28, 101<sup>st</sup> Cong., 2<sup>nd</sup> sess. (Washington, DC: GPO, 1992), pp. 1290-1291. (Hereafter, *Riddick’s Senate Procedure*.)

<sup>3</sup> *Ibid.*, pp. 1150-1151.

<sup>4</sup> For example, on November 29, 2016, Senate bills S. 3483 and S. 3484 were introduced. The *Congressional Record* entry stated, “The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred [to committee] as indicated[.]” “Introduction of Bills and Joint Resolutions,” *Congressional Record*, daily edition, vol. 162 (November 29, 2016), p. S6550.

On November 28, 2016, the Senate received a message from the House that the House had passed H.R. 5711 and H.R. 5982 “in which it requests the concurrence of the Senate[.]” A *Congressional Record* entry stated, “The following bills were read the first and second times by unanimous consent, and referred [to committee] as indicated[.]” “Measures Referred,” *Congressional Record*, daily edition, vol. 162 (November 28, 2016), p. S6514.

<sup>5</sup> Although almost all bills and joint resolutions that are referred are referred to a single committee, Rule XVII, para. 3 allows a measure to be referred to more than one committee, jointly or sequentially, by motion of the majority and minority leaders; this procedure appears never to have been used. Joint and sequential referrals have been made in other ways, however, such as by unanimous consent or pursuant to a standing order, for example, Section 3(b)(1) of S.Res. 400, as amended, which appears as Standing Order 81 in the *Senate Manual*. U.S. Congress, Senate Committee on Rules and Administration, *Senate Manual*, prepared by Matthew McGowan, 113<sup>th</sup> Cong., 1<sup>st</sup> sess., S.Doc. 113-1 (Washington, DC: GPO, 2014), p. 155. See also CRS Report 98-242, *Committee Jurisdiction and Referral in the Senate*, by Judy Schneider.

and referral of bills and joint resolutions, and the referral of House-passed bills and joint resolutions, occurs as “morning business,” pursuant to Senate Rule VII, paragraph 1.<sup>6</sup>

The Senate may, however, use provisions of Senate Rule XIV or unanimous consent to bypass referral of a bill or joint resolution to a committee. The Senate might also hold a measure in abeyance at the desk (of the presiding officer), at least temporarily not referring it to committee or proceeding on it. The Senate might also agree by unanimous consent to truncate a committee’s consideration of a measure that had been referred to it. Reasons for bypassing a committee’s consideration of a bill or joint resolution include wishing to place the measure directly on the Senate’s Calendar of Business, which under General Orders lists measures eligible for floor consideration, or wanting to immediately call up and consider the measure.

Senators might also convert introduced bills and resolutions into an amendment form and offer their proposal as a germane, relevant, or nongermane amendment, including amendments in the nature of a substitute and managers’ amendments, to a measure being considered on the Senate floor. They might also choose not to introduce a bill or resolution at all, but only seek to amend another measure. This report does not examine the use of the amendment process as a way to bypass Senate committees.<sup>7</sup>

This report examines alternative procedures and actions that the Senate uses to bypass committee consideration of bills and joint resolutions. It also provides examples of how the Senate uses these alternative procedures and actions to facilitate consideration and passage of some bills and joint resolutions.

In the remainder of this report, *bill* or *bills* and *measure* or *measures* will be used to refer to bills and joint resolutions.

## Using Rule XIV to Bypass a Senate Committee

Senate Rule XIV, paragraph 4, states: “... every bill and joint resolution introduced on leave, and every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committee, *shall, if objection be made to further proceeding thereon, be placed on the Calendar.*” (*Emphasis added.*)

Therefore, through objection, a bill after two readings is prevented from being referred to committee and is placed directly on the Senate’s Calendar of Business. It is usually the majority

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<sup>6</sup> This rule (para. 6) also allows the introduction of such measures by delivery to the presiding officer’s desk, “in the absence of objection.” In fact, in a unanimous consent request similar to ones in previous Congresses, the Senate for the current Congress permitted “that, for the duration of the 115<sup>th</sup> Congress, Senators may be allowed to bring to the desk bills, joint resolutions, concurrent resolutions, and simple resolutions, for referral to appropriate committees.” Sen. Mitch McConnell, “Unanimous Consent Agreements,” unanimous consent agreements, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. S7.

<sup>7</sup> For example, in the 113<sup>th</sup> Congress, S. 783 and S. 1513 were introduced in the Senate; they would amend the Helium Act. S. 783 was reported by the Energy and Natural Resources Committee on July 29, 2013 (S.Rept. 113-83). Following discussion among interested Senators, S. 1513 was introduced September 17, 2013, and placed directly on the Senate Calendar. In the meantime, the House passed a companion measure, H.R. 527. The majority leader called up H.R. 527, and the text of S. 1513 was agreed to as an amendment in the nature of a substitute to H.R. 527. “Responsible Helium Administration and Storage Act,” *Congressional Record*, daily edition, vol. 159 (September 19, 2013), pp. S6632-S6634.

For explanation of the amendment process in the Senate, see CRS Report 98-707, *Senate Amendment Process: General Conditions and Principles*, by Walter J. Oleszek (archived but available from author); CRS Report 98-614, *Amendments in the Senate: Types and Forms*, by Christopher M. Davis; and CRS Report 98-853, *The Amending Process in the Senate*, by Christopher M. Davis.

leader (or a Senator acting in the majority leader's stead), acting on his own or at the request of any other Senator, who objects to "further proceeding"—committee referral—on a measure.<sup>8</sup>

For example, this procedure was used to place S. 1035 directly on the calendar. On April 21, 2015, the presiding officer recognized Majority Leader McConnell for this colloquy with the chair:<sup>9</sup>

Mr. McCONNELL. Mr. President, I understand that there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The senior assistant legislative clerk read as follows:

A bill (S. 1035) to extend authority relating to roving surveillance, access to business records, and individual terrorists as agents of foreign powers under the Foreign Intelligence Surveillance Act of 1978 and for other purposes.

Mr. McCONNELL. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read for the second time on the next legislative day.<sup>10</sup>

In the next edition of the Senate's Calendar of Business on April 22, this action was recorded in the section Bills and Joint Resolutions Read the First Time. The measure was pending at the desk (of the presiding officer).

Since objection had been heard to the second reading, the presiding officer recognized Majority Leader McConnell the next legislative day, April 22:

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk due for a second reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 1035) to extend authority relating to roving surveillance, access to business records, and individual terrorists as agents of foreign powers under the Foreign Intelligence Surveillance Act of 1978 and for other purposes.

Mr. McCONNELL. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.<sup>11</sup>

S. 1035 had received its second reading, but there was objection to further proceeding on referral of the bill to committee. The presiding officer, under Rule XIV, ordered that the bill be placed on

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<sup>8</sup> See also *Riddick's Senate Procedure*, pp. 225-226 and 240-248.

<sup>9</sup> Although any Senator could object to the reading of a measure to prevent its referral to committee, a Senator, other than the majority leader or the sponsor of the bill or joint resolution, who makes an objection is normally acting in the stead of the majority leader.

<sup>10</sup> Sen. Mitch McConnell, "Measure Read the First Time—S. 1035," remarks in the Senate, *Congressional Record*, daily edition, vol. 161 (April 21, 2015), p. S2309.

<sup>11</sup> Sen. Mitch McConnell, "Measure Placed on the Calendar—S. 1035," remarks in the Senate, *Congressional Record*, daily edition, vol. 161 (April 22, 2015), p. S2312.

the Senate Calendar. In the calendar beginning April 23, S. 1035 appeared as Calendar Order No. 60 in the section General Orders, with other measures eligible for floor consideration.<sup>12</sup>

This same procedure is followed to have House-passed bills and joint resolutions placed directly on the Senate calendar.<sup>13</sup>

Broadly, the two purposes of preventing referral of a bill to a committee by placing it on the Senate Calendar are (1) to facilitate the full Senate's opportunity to consider the measure; or (2) to bypass a committee's potential inaction or, to a bill's sponsor, potential hostile action.<sup>14</sup> Although placing a bill directly on the calendar does not guarantee that the full Senate will ever consider it, the measure is available for floor consideration and certain procedural steps, like committee reporting or discharging a committee from a bill's consideration, and procedural requirements, like the two-day availability of a committee report, may be obviated.<sup>15</sup>

In the 114<sup>th</sup> Congress, at least 82 bills were placed directly on the calendar using the Rule XIV procedure.<sup>16</sup> For example, S. 1, to approve the construction of the Keystone XL pipeline, was a priority for many Republican Senators and a group of Democratic Senators. A reason that it might have been placed directly on the calendar was that the issue had been discussed in the second session of the 113<sup>th</sup> Congress and a related bill (S. 2280) had been debated and voted on in the 113<sup>th</sup> Congress's lame-duck session.<sup>17</sup> On January 6, 2015, in the 114<sup>th</sup> Congress, Senator John Hoeven introduced S. 1. It was read a first time that day, and, on January 7, it was read the second time and placed on the calendar, thereby enabling the majority leader to expeditiously call up the bill in the Senate.

Although no measure on the Senate Calendar is assured rapid or any consideration, the majority leader moved to proceed to the consideration of S. 1 on January 8 and immediately presented a

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<sup>12</sup> Two or more bills and joint resolutions might also be processed en bloc in a Rule XIV colloquy. See, for example, Sen. Deb Fischer, "Measures Read the First Time—S. 3464 and H.R. 6094," remarks in the Senate, *Congressional Record*, daily edition, vol. 162 (September 29, 2016), p. S6286; and Sen. Mitch McConnell, "Measures Placed on the Calendar—S. 3464 and H.R. 6094" remarks in the Senate, *Congressional Record*, daily edition, vol. 162 (November 15, 2016), p. S6317.

<sup>13</sup> See the preceding footnote.

<sup>14</sup> On occasion, a Senator introduces a bill, which is referred to committee, and later introduces an identical or similar measure and places it directly on the calendar under Rule XIV. The Senator might do this to bypass a committee's hostility to the first measure: the committee would neither report the measure nor allow it to be discharged by unanimous consent. Alternately, as mentioned in the introduction to this report, a Senator can seek to offer a measure in the form of an amendment to another measure. Senator Mark Udall did not publicly explain his reasons for introducing a bill that was referred to committee, introducing an identical second bill that was placed directly on the Senate Calendar, or subsequently submitting the same bill in the form of an amendment to a measure being considered on the Senate floor, but he pursued all of these options. See S. 509, introduced by Sen. Udall on March 8, 2011, and referred to the Banking, Housing, and Urban Affairs Committee, and S. 2231, introduced by Sen. Udall on March 22, 2012, and placed directly on the calendar. See also Sen. Mark Udall, "Jumpstart Our Business Startups Act," remarks in the Senate, *Congressional Record*, daily edition, vol. 158 (March 15, 2012), pp. S1695-S1696.

<sup>15</sup> Under Senate precedents, however, a measure may not be considered on the day on which it received its second reading, except by unanimous consent. See *Riddick's Senate Procedure*, pp. 662-663.

<sup>16</sup> These 82 measures were identified by a search of the *Congressional Record* on the Legislative Information System. Such a search of the preceding 113<sup>th</sup> Congress identified at least 140 measures placed directly on the Senate Calendar by use of the Rule XIV procedure.

<sup>17</sup> The vote of 59-41 was one vote short of the 60 votes required for passage pursuant to a unanimous consent agreement. The unanimous consent agreement appears at: Sen. Mary Landrieu, "Unanimous Consent Agreement—S. 2280," Senate debate, *Congressional Record*, daily edition, vol. 160 (November 12, 2014), pp. S5902-S5903. Debate and the vote appear at: "To Approve the Keystone SL Pipeline," Senate debate, *Congressional Record*, daily edition, vol. 160 (November 18, 2014), pp. S6029-S6073.

motion to invoke cloture. The Senate on January 12 by a 63-32 vote invoked cloture on the motion to proceed. The Senate subsequently agreed to the motion to proceed on a voice vote on January 13, whereupon debate and the consideration of amendments began. Upon a second attempt to invoke cloture *on the measure*, cloture was invoked by a vote of 62-35 on January 29. The Senate voted 62-36 the same day to pass the bill.<sup>18</sup>

As mentioned, House-passed bills might also be placed directly on the calendar using the Rule XIV procedure. The Senate might choose this option when—

- a related Senate measure is already on the calendar;
- a Senate committee is in the process of completing consideration of Senate companion legislation;
- an amendment to the House measure is already in discussion among interested Senators and the House-passed measure will be the Senate’s legislative vehicle;
- Senators of the committee of jurisdiction
- support for the House-passed measure is stronger in the full Senate than in the committee to which it would be referred;
- the House-passed measure includes tax or appropriations provisions, which must originate in the House, requiring the use of a House-passed legislative vehicle; or
- for another reason.

House-passed measures placed on the calendar in this way in the 114<sup>th</sup> Congress included H.R. 4465, the Federal Assets Sale and Transfer Act, where the Senate Homeland Security and Governmental Affairs committee had earlier ordered reported a companion bill, and H.R. 2666, the No Rate Regulation of Internet Broadnet Access Act, where the Senate Commerce, Science, and Transportation Committee subsequently reported a companion bill.

The procedure under Rule XIV is also used by minority-party Senators, or by a majority-party Senator with a viewpoint different on an issue from that of other Senators of his or her party, to give added visibility to specific bills and to avoid potential inaction or hostility in a Senate committee. A Democratic Senator in the 114<sup>th</sup> Congress, for example, used this procedure to put directly on the calendar S. 3348, a bill to require major-party presidential candidates to disclose tax return information.

## **Measures Placed on the Senate Calendar by Unanimous Consent**

By unanimous consent, bills may also be read the first and second times and placed directly on the calendar. This procedure was used in the 114<sup>th</sup> Congress for bills such as H.R. 5687, the GAO Mandates Revision Act. The Senate companion measure, S. 2964, had been reported earlier from the Senate Homeland Security and Governmental Affairs Committee and was pending on the Senate Calendar.<sup>19</sup>

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<sup>18</sup> Again, no measure placed on the calendar, either directly or upon being reported by a committee, is assured rapid or any consideration. The majority leader determines the Senate’s floor agenda and may call up a measure on the calendar, but he still must first obtain the Senate’s agreement to consider the measure (agreement to a motion to proceed) and, if successful, then obtain the Senate’s agreement to complete consideration and vote on final passage.

<sup>19</sup> The Senate might also use a combination of the Rule XIV proceeding and unanimous consent to place a measure (continued...)



Even major legislation might be placed directly on the calendar by unanimous consent. For example, in the 113<sup>th</sup> Congress, Majority Leader Reid anticipated that the Senate would soon receive from the House H.J.Res. 59, the fiscal year 2014 continuing appropriations resolution. To ensure that he could quickly call up the measure, the majority leader made this unanimous consent request on September 19, 2013:

Mr. President, I ask unanimous consent that[,] when the Senate receives H.J.Res. 59 from the House, the measure be placed on the calendar with a motion to proceed not in order until Monday, September 23.<sup>20</sup>

When the majority leader obtained the Senate’s unanimous consent, the House was still one day from voting to proceed to the consideration of H.J.Res. 59.

## Using Unanimous Consent to Bypass Committees for Floor Consideration

Senate floor consideration of a bill could be characterized as a two-step process. There is first debate and a decision by the Senate whether to consider a measure: a vote on, invoking cloture on, or unanimous consent to a motion to proceed to consideration of the measure. There is then debate, possible amendment, and a vote on final passage of the measure itself.

On many pieces of noncontroversial legislation, Senate leaders might use one of two informal processes called *clearance* and *hotlining* to determine the feasibility of expeditious or immediate consideration of a measure.<sup>21</sup> Senators are notified of pending noncontroversial bills to determine if any Senator would object to proceeding to consider and then passing a specific measure by unanimous consent—with little or no debate, no motion or amendment unless it is sought as part of clearance, and, likely, no recorded votes.<sup>22</sup> The process of passing noncontroversial measures may include bypassing a Senate committee or truncating committee action, although a committee might well have played a key role in the development of the noncontroversial measure sought to be passed or in the measure’s clearance.

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(...continued)

directly on the calendar. For example, in the 114<sup>th</sup> Congress, H.R. 4038 was read the first time, the second reading was objected to, and the second reading was directed to occur on the next legislative day. Since the Senate would not be in session on the next calendar days because of the Thanksgiving break, the majority leader asked unanimous consent that H.R. 4038 “be placed on the calendar as if read for a second time.” Sen. Mitch McConnell, “Order for Measure To Be Placed on the Calendar—H.R. 4038,” remarks in the Senate, *Congressional Record*, daily edition, vol. 161 (November 18, 2015), p. S8175.

The Senate might also use a unanimous consent agreement to govern placing one or more specified measures on the calendar. See, for example, Sen. Harry Reid, “Order of Procedure,” remarks in the Senate, *Congressional Record*, daily edition, vol. 159 (February 14, 2013), p. S790, concerning certain measures to be introduced in the future by the majority and minority leaders.

<sup>20</sup> Sen. Harry Reid, “Unanimous Consent Agreement—H.J.Res. 59,” remarks in the Senate, *Congressional Record*, daily edition, vol. 159 (September 19, 2013), p. S6632.

<sup>21</sup> *Clearance* generally implies a process for obtaining Senators’ consent to call up and pass legislation on the Senate Calendar. See “Call of the Calendar” in Walter Kravitz, *Congressional Quarterly’s American Congressional Dictionary*, 3<sup>rd</sup> ed. (Washington, DC: CQ Press, 2001), p. 34. *Hotline* or *hotlining* generally implies seeking Senators’ immediate response to a proposed action, such as the outline of a possible unanimous consent agreement or a proposal to within a few minutes pass a bill or resolution by unanimous consent.

<sup>22</sup> Measures may be taken up rapidly during legislative session (in a period dubbed the “wrap-up period”). They may also be taken up during the conduct of legislative business, when a unanimous consent request temporarily suspends the consideration of other business before the Senate.

On major legislation, the majority leader also attempts through clearance to obtain unanimous consent to proceed to consideration of a measure. The majority leader might seek unanimous consent even if the measure was not referred to or reported by a committee.<sup>23</sup> If successful in negotiating unanimous consent to proceed to the consideration of a measure, or perhaps to discharge a committee from further proceedings on a measure and then to proceed to its consideration, the majority leader propounds a unanimous consent request on the Senate floor to proceed to the consideration of the specified measure.<sup>24</sup>

This section of the report illustrates the use of unanimous consent to bypass or truncate committee consideration of legislation and, particularly for noncontroversial legislation, to expeditiously pass such bills on the Senate floor.<sup>25</sup>

## Same-Day Consideration

The Senate may pass some noncontroversial bills the day they are introduced, for example, in the 113<sup>th</sup> Congress, S. 1568, to facilitate the replacement of a Veterans Administration medical center in Denver:

Mr. GARDNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1568, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 1568) to extend the authorization to carry out the replacement of the existing medical center of the Department of Veterans Affairs in Denver, Colorado, to authorize transfers of amounts to carry out the replacement of such medical center, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GARDNER. Mr. President ... I ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.<sup>26</sup>

The PRESIDING OFFICER. Without objection, it is so ordered.<sup>27</sup>

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<sup>23</sup> See, for example, the complex unanimous consent agreement anticipating receipt of a House-passed measure, H.R. 3236, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, and providing for its consideration through a vote on final passage. Sen. Mitch McConnell, “Unanimous Consent Agreement—H.R. 3236,” remarks in the Senate, *Congressional Record*, daily edition, vol. 161 (July 29, 2015), p. S6144.

<sup>24</sup> If unsuccessful in obtaining clearance, the motion to proceed is debatable and therefore may be filibustered. Once the motion to proceed is agreed to by vote, through the cloture procedure, or by unanimous consent, consideration of the measure begins. The majority leader might seek a complex unanimous consent agreement or a series of such agreements (also called “time-limitation agreements”) on major legislation that structures debate and the amendment process to ultimately bring the Senate to a vote on final passage.

<sup>25</sup> For an explanation of how the Senate might consider major legislation, see CRS Report 96-548, *The Legislative Process on the Senate Floor: An Introduction*, by Valerie Heitshusen; CRS Report RS20668, *How Measures Are Brought to the Senate Floor: A Brief Introduction*, by Christopher M. Davis; CRS Report 98-225, *Unanimous Consent Agreements in the Senate*, by Walter J. Oleszek (archived but available from author); and CRS Report RS20594, *How Unanimous Consent Agreements Regulate Senate Floor Action*, by Richard S. Beth.

<sup>26</sup> If an agreement is to allow one or more Senators to speak on a measure, the majority leader or his designee would not utter these remarks until after the speaker(s) had finished.

<sup>27</sup> Sen. Cory Gardner, “To Extend the Authorization To Carry Out the Replacement of the Existing Medical Center of the Department of Veterans Affairs in Denver, Colorado,” Senate debate, *Congressional Record*, daily edition, vol. 161 (June 11, 2015), p. S4116. For another example, see Sen. Mitch McConnell, “Equity in Government Compensation Act (continued...)”

The Senate may also pass some House-passed bills when they are received. For example, the Senate received a message from the House July 14, 2016, regarding H.R. 5722, establishing the John F. Kennedy Centennial Commission, and passed the bill that day:

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of H.R. 5722, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 5722) to establish the John F. Kennedy Centennial Commission.

There being no objection, the Senate proceeded to consider the bill.

Ms. MURKOWSKI. Mr. President, I further ask unanimous consent that the bill be read three times and passed and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.<sup>28</sup>

If the measure is a joint resolution rather than a bill, and the joint resolution has a preamble,<sup>29</sup> the unanimous consent request on passage must encompass the preamble. So, for example, Majority Leader Reid made this request pertaining to S.J.Res. 22 (112<sup>th</sup> Congress), to grant congressional consent to a change in a compact between the states of Missouri and Illinois:

I ask unanimous consent the joint resolution be passed, the *preamble be agreed to*, the motion to reconsider be made and laid upon the table, there be no intervening action or debate, and any statements be printed in the Record.<sup>30</sup> (*Emphasis added.*)

## Measures at the Desk or Held at the Desk

House bills might be received by the Senate, or Senate bills might be introduced, with no immediate further proceedings on them. They may be held at the desk or ordered to be held at the desk,<sup>31</sup> sometimes pending a decision on referring them to committee, passing them without committee consideration, or obtaining clearance from all Senators. For example, H.R. 5936, the West Los Angeles Leasing Act of 2016 (dealing with local Veterans Administration leases), was received in the Senate on September 13, 2016. Although several other bills received from the House that day were referred, no proceedings occurred on H.R. 5936. On September 19, the Senate took up and passed H.R. 5936 by unanimous consent. To proceed to consideration, Majority Leader McConnell simply stated,

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(...continued)

of 2015,” Senate debate, *Congressional Record*, daily edition, vol. 161 (September 15, 2015), p. S6659. See also *Riddick’s Senate Procedure*, pp. 1489-1490.

<sup>28</sup> Sen. Lisa Murkowski, “John F. Kennedy Centennial Commission Act,” Senate debate, *Congressional Record*, daily edition, vol. 162 (July 14, 2016), p. S5185. See also *Riddick’s Senate Procedure*, pp. 670, 1488-1489.

<sup>29</sup> Introductory text, sometimes called *whereas clauses*, preceding the resolving clause of a resolution.

<sup>30</sup> Sen. Harry Reid, “Granting the Consent of Congress,” Senate debate, *Congressional Record*, daily edition, vol. 157 (September 26, 2011), p. S6007.

<sup>31</sup> For an example of a measure ordered to be held at the desk prior to its floor consideration, see Sen. Harry Reid, “Unanimous Consent Agreement—S. 5 and S. 30,” unanimous consent agreement, *Congressional Record*, daily edition, vol. 153 (March 29, 2007), p. S4221.

I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5936, which was received from the House and is at the desk.<sup>32</sup>

The bill was passed without debate by voice vote.<sup>33</sup>

The Senate might even amend a bill that is taken from the desk and considered, as it did with H.R. 6302, the Overtime Pay for Secret Service Agents Act of 2016. The pertinent words spoken after there was no objection to the Senate's proceeding to consider the bill were:

I ask unanimous consent that the Johnson substitute amendment be agreed to; the bill, as amended, be considered read a third time and passed; the title amendment be agreed to; and the motion to reconsider be considered made and laid upon the table.<sup>34</sup>

H.R. 6302, as amended, was passed by unanimous consent.

## Anticipating House Action

The Senate might anticipate passage of a measure by the House, and agree by unanimous consent to Senate passage. For example, the Senate in the 113<sup>th</sup> Congress anticipated House passage of a bill that would provide a short-term extension for special Iraqi immigrant visas:

Mr. REID. Mr. President, I ask unanimous consent that if the Senate receives a bill from the House which is identical to S. 1566, a bill providing a short-term extension of Iraq special immigrant visas, as passed by the Senate, then the bill be read three times and passed and the motion to reconsider be laid on the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.<sup>35</sup>

The Senate might even anticipate House action on major legislation and, in response to exigent circumstances, agree by unanimous consent to its automatic consideration and passage. This happened, for example, when Hurricane Katrina decimated the Gulf Coast during the August 2005 congressional recess. Speaker Dennis Hastert and Majority Leader Bill Frist called Congress back into session on September 1, 2005 (the Senate) and September 2 (the House).<sup>36</sup> With only a handful of Members present, the House on September 2 passed H.R. 3645, emergency supplemental appropriations to deal with the immediate consequences of Hurricane Katrina. On September 1, anticipating House action, Senator Thad Cochran, chair of the Appropriations Committee, made this unanimous consent request, which was agreed to:

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<sup>32</sup> Sen. Mitch McConnell, "West Los Angeles Leasing Act of 2016," Senate debate, *Congressional Record*, daily edition, vol. 162 (September 19, 2016), p. S5888.

<sup>33</sup> For other examples, see H.R. 5937 in "Authorizing the American Battle Monuments Commission To Acquire, Operate, and Maintain the Lafayette Escadrille Memorial in Marnes-la-Coquette, France," *Congressional Record*, daily edition, vol. 162 (September 20, 2016), p. S5911; and H.R. 5946 in "United States Appreciation for Olympians and Paralympians Act of 2016," *Congressional Record*, daily edition, vol. 162 (September 29, 2016), p. S6285.

<sup>34</sup> Sen. Rob Portman, "Overtime Pay for Secret Service Agents Act of 2016," Senate debate, *Congressional Record*, daily edition, vol. 162 (December 9, 2016), p. S7131.

<sup>35</sup> Sen. Harry Reid, "Unanimous Consent—S. 1566," remarks in the Senate, *Congressional Record*, daily edition, vol. 159 (October 2, 2013), p. S7140. See also *Riddick's Senate Procedure*, pp. 230-231. For an example of a more complex parliamentary setting, in which the Senate not only anticipated the receipt of a House-passed measure but also provided for requesting a conference with the House, see the time-limitation agreement on S. 1813. Sen. Harry Reid, "Moving Ahead for Progress in the 21<sup>st</sup> Century Act—Continued," unanimous consent agreement, *Congressional Record*, daily edition, vol. 158 (March 7, 2012), pp. S1455-S1456.

<sup>36</sup> Speaker pro tempore Tom DeLay, "Notification of Reassembling of Congress," remarks in the House, *Congressional Record*, vol. 151, part 14 (September 2, 2005), p. 19424.

Mr. President, at this point, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the Senate may receive from the House an emergency supplemental appropriations bill for relief of the victims of Hurricane Katrina, the text of which is at the desk, and that the measure be considered read three times and passed and a motion to reconsider laid on the table; provided that the text of the House bill is identical to that which is at the desk.<sup>37</sup>

The House and Senate passed the supplemental appropriations bill September 2 and President George W. Bush signed it into law the same day (P.L. 109-61).

## Truncating Committee Action

Noncontroversial Senate bills and House-passed measures are often referred to committee. A committee might later be discharged by unanimous consent of the Senate from a measure's consideration. (If unanimous consent cannot be obtained, a motion to discharge could be made.<sup>38</sup>) For example, H.R. 1168, an amendment to the Social Security Act to preserve access to rehabilitation innovation centers under the Medicare program, was introduced on April 30, 2015. On December 9, 2016, the measure was discharged by unanimous consent from the Senate Finance Committee. With an amendment included in the unanimous consent request on reading and passage, the Senate passed the bill.<sup>39</sup>

Mr. PORTMAN. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of S. 1168 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 1168) to amend title XVIII of the Social Security Act to preserve access to rehabilitation innovation centers under the Medicare program.

There being no objection, the Senate proceeded to consider the bill.

Mr. PORTMAN. Mr. President, I ask unanimous consent that the Kirk amendment at the desk be agreed to; that the bill, as amended, be read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.<sup>40</sup>

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<sup>37</sup> Sen. Thad Cochran, "Making Emergency Supplemental Appropriations," remarks in the Senate, *Congressional Record*, vol. 151, part 14 (September 5, 2005), p. 19421.

<sup>38</sup> See also *Riddick's Senate Procedure*, pp. 802-806.

<sup>39</sup> A committee might also be discharged automatically after a measure has been pending before it for a period of time, pursuant to congressional procedures in law. See, for example, S.J.Res. 22, discharged by petition pursuant to 5 U.S.C. 802(c). "Discharge Petition—S.J.Res. 22," *Congressional Record*, daily edition, vol. 161 (October 30, 2015), p. S7675. The procedure contained in 5 U.S.C. 802(c), a provision of the Congressional Review Act on review of proposed regulations, states that, after a joint resolution has been pending in committee for 20 days, the resolution may be discharged by a petition supported by 30 Senators. See also S.J.Res. 20, which was discharged October 29, 2015, pursuant to two of the several other laws providing congressional review of proposed executive actions.

<sup>40</sup> Sen. Rob Portman, "Preserving Rehabilitation Innovation Centers Act of 2015," Senate debate, *Congressional Record*, daily edition, vol. 162 (December 9, 2016), pp. S7144-7145. See also *Riddick's Senate Procedure*, pp. 802-806.

Although legislation might be discharged from a committee that has taken no formal action on a measure, legislation might also be discharged following formal committee action. For example, the Veterans' Affairs Committee held hearings on S. 3021, the Veterans Education Improvement Act of 2016. The committee was subsequently discharged from further consideration of S. 3021. Similarly, the Veterans' Affairs Committee was discharged following committee hearings from further consideration of S. 3055, the Department of Veterans Administration Dental Insurance Reauthorization Act of 2016. In the 112<sup>th</sup> Congress, the Judiciary Committee was discharged from further consideration of S. 3250, the Sexual Assault Forensic Evidence Reporting Act of 2012 (the SAFER Act), after the committee had ordered the bill to be favorably reported.

Measures might also be discharged and considered en bloc.<sup>41</sup>

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<sup>41</sup> See, for example, Sen. Lisa Murkowski, "Measures Discharged," remarks in the Senate, *Congressional Record*, daily edition, vol. 162 (July 4, 2016), p. S5192.