

# CRS Report for Congress

## Legislative Activity in Committee: The Impact of Senate Rules

Stanley Bach  
Senior Specialist in the Legislative Process

December 12, 1994



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**LEGISLATIVE ACTIVITY IN COMMITTEE:  
THE IMPACT OF SENATE RULES**

**SUMMARY**

For the most part, the Senate's rules allow each of its standing committees to decide for itself how to conduct its legislative business. Each committee is required to adopt and publish its own written rules. In addition, the Senate does impose certain requirements and prohibitions on its committees; and because the committees are the agents of the Senate, they are obligated to comply with all Senate directives that apply to them. These directives govern such matters as scheduling meetings, open and closed meetings, quorum requirements, the use of proxies, voting requirements, reporting procedures, and the content of written committee reports.

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This report identifies and summarizes the provisions of the Senate's Standing Rules and certain precedents and other directives that relate to legislative activity in the Senate's standing committees. Most of the report is organized under three headings: committee meetings, hearings, and reporting. Its coverage is limited to requirements and prohibitions that are of direct and general applicability to most or all Senate committees. The report does not cover any special provisions contained in Senate resolutions concerning the Select Committees on Ethics and Intelligence or the Special Committee on Aging. Similarly, it does not encompass other provisions of law or the Senate's rules or standing orders that apply only to one committee, such as the provisions of Rule XVI governing appropriations measures and the provisions of the Congressional Budget and Impoundment Control Act, as amended, governing budget resolutions and reconciliation and rescission measures.

The summaries presented here may not capture every nuance and detail of the rules themselves. For that purpose, the text of the appropriate rule or other document should be consulted.

### **GENERAL**

#### ***Adoption of committee rules***; Rule XXVI, paragraph 2

Each committee is required to adopt written rules to govern its proceedings. Committee rules must not be inconsistent with the rules of the Senate, but the Standing Rules do not elaborate on what this means in practice.

#### ***Publication of committee rules***; Rule XXVI, paragraph 2

The rules adopted by each committee are to be published in the *Congressional Record* by March 1 at the beginning of each Congress.

If a committee later adopts an amendment to its rules, that amendment only becomes effective when it is published in the *Record* as well. If the Senate should create a committee on or after February

1, the committee must adopt its rules and publish them in the *Record* within 60 days.

***Committee records;*** Rule XXVI, paragraph 7(b)

Each committee is to keep a record of its actions, including rollcall votes taken. This requirement does not apply to the Appropriations Committee.

**MEETINGS**

***Authority to meet;*** Rule XXVI, paragraph 1

A standing committee and its subcommittees are authorized to meet and to hold hearings when the Senate is in session and when it has recessed or adjourned. (But committees do not have unlimited authority to meet when the Senate also is meeting; see *Meetings during Senate sessions*, below.)

***Regular meeting day;*** Rule XXVI, paragraph 3

Each committee must designate a regular day on which to meet at least monthly. This requirement does not apply to the Appropriations Committee.

***Additional committee meetings;*** Rule XXVI, paragraph 3

The chairman of a committee may call additional meetings at his or her discretion.

In addition, three members of a committee can make a written request to the chairman to call a special meeting. The chairman then has three calendar days in which to schedule the meeting, which is to take place within the next seven calendar days. If the chairman fails to do so, a majority of the committee members can decide in writing to hold the meeting at a certain date and hour.

The latter provision has rarely been invoked. However, the expectation that Senators were prepared to invoke it may have encouraged committee chairmen to schedule meetings that other committee members had sought.

***Meetings during Senate sessions;*** Rule XXVI, paragraph 5(a)

A committee may not meet on any day (1) after the Senate has been in session for two hours, or (2) after 2:00 p.m. when the Senate is in session.

This prohibition does not apply to the Appropriations and Budget Committees, and it may be waived for any other committee by (1) unanimous consent or (2) joint agreement of the Majority and Minority Leaders or their designees. In every instance in which the prohibition is waived, the Majority Leader is to announce on the floor the time and place of the meeting.

Also, "[l]eave to sit ... may be granted by a majority vote. A motion that a committee be permitted to sit on a said date is debatable and privileged." (*Riddick's Senate Procedure*, p. 407.)

***Scheduling meetings;*** Sec 401 of S. Res. 4, 95th Congress

When a committee or subcommittee schedules or cancels a meeting, it is to provide that information, including the time, place, and purpose of the meeting, for inclusion in the Senate's computerized schedule information system.

***Open meetings;*** Rule XXVI, paragraph 5(b)

In general, committee and subcommittee meetings, including hearings, are open to the public.

When a committee member believes that a certain meeting should be closed to the public, the committee can vote on his or her motion, if seconded, that it go into closed session only for the purpose of determining whether the subject of the meeting or the testimony at the hearing fall into any of six categories. If so, the committee then can decide by rollcall vote in open session to close the remainder of the meeting.

The committee is authorized to vote to close the meeting if it (1) involves national security information, (2) concerns committee personnel, management or procedure, (3) could invade personal privacy or damage someone's reputation or professional standing, (4) could reveal identities or damage operations relating to law enforcement activities, (5) could disclose certain kinds of confidential financial or commercial information, or (6) could divulge information that some law or regulation requires to be kept confidential.

The same procedures and criteria apply to a subcommittee meeting and to a series of committee or subcommittee meetings on the same subject that may extend over no more than fourteen calendar days.

***Presiding at committee meetings;*** Rule XXVI, paragraph 3

In the absence of the chairman at any committee meeting, the next ranking member of the majority party shall preside.

***Quorum at meeting;*** Rule XXVI, paragraph 7(a)(1)

A committee or subcommittee may set its own quorum requirement for transacting business at meetings, so long as the quorum is not less than one-third of the membership. (A committee can set a lesser quorum requirement for hearings, but a majority must be present to order something reported; see ***Quorum at hearing*** and ***Quorum for reporting***, below. Also, proxies cannot be used to constitute a quorum; see ***Proxy voting***, below.)

***Maintaining order;*** Rule XXVI, paragraph 5(d)

The chairman is responsible for maintaining order at committee meetings, and may close a meeting temporarily for that purpose.

***Proxy voting;*** Rule XXVI, paragraphs 7(a)(3) and 7(c)(1)

A committee may adopt rules permitting proxy voting, except on the vote to order a measure or matter reported (see ***Proxy votes on reporting***, below).

However, a committee may not permit a proxy vote to be cast unless the absent Senator has been notified about the question to be decided and has requested that his or her vote be cast by proxy.

"The use of proxies is not in order for the purpose of constituting a quorum." (*Riddick's Senate Procedure*, p. 1192.)

***Records of committee meetings;*** Rule XXVI, paragraph 5(e)

Each committee shall maintain a transcript or recording of each committee meeting, whether it is open or closed to the public. This requirement can be waived by majority vote.

## HEARINGS

***Authority to hold hearings;*** see ***Authority to meet***, above.

***Investigative authority;*** Rule XXVI, paragraph 1

Each standing committee and its subcommittees is empowered to investigate matters within its jurisdiction.

***Subpoena power;*** Rule XXVI, paragraph 1

Each standing committee and its subcommittees is empowered to issue subpoenas for persons and papers.

***Public announcement;*** Rule XXVI, paragraph 4(a)

A committee is to announce the date, place, and subject of each hearing at least one week in advance.

This requirement does not apply to the Appropriations and Budget Committees, and any committee may waive it for good cause.

***Quorum at hearing;*** Rule XXVI, paragraph 7(a)(2)

A committee or subcommittee may set its own quorum requirement "for the purpose of taking sworn testimony." The Standing Rules do not set a minimum quorum for this purpose.

***Statements of witnesses;*** Rule XXVI, paragraph 4(b)

Each witness is to file his or her statement in writing at least one day before his or her appearance. The chairman and ranking minority member may waive this requirement, and it does not apply to the Appropriations Committee.

***Staff summaries of testimony;*** Rule XXVI, paragraphs 4(b) and 4(c)

The committee may direct its staff to prepare daily digests of the statements that witnesses propose to present, and then to prepare daily summaries of the testimony that the committee actually received. With the approval of the chairman and ranking minority member, the committee may include the latter summaries in its published hearings.

***Witnesses selected by the minority;*** Rule XXVI, paragraph 4(d)

During hearings on any measure or matter, the minority shall be allowed to select witnesses to testify on at least one day, when the chairman receives such a request from a majority of the minority party members. This provision does not apply to the Appropriations Committee.

***Open hearings;*** see *Open meetings*, above.

***Broadcasting hearings;*** Rule XXVI, paragraph 5(c)

Any hearing that is open to the public also is open to radio and television broadcasting. However, committees and subcommittees may adopt rules to govern the manner in which broadcasting takes place.

***Printing of hearings;*** Rule XXVI, paragraph 10(a)

Each committee is authorized to have printed its hearing records as well as material submitted at hearings for the record.

***Availability of printed hearings;*** Rule XVII, paragraph 5

If a committee has held hearings on a measure or matter it has reported, the committee is to "make every reasonable effort" to have the printed hearings available to Senators before the Senate begins consideration of the measure or matter.

**REPORTING**

***Authority to originate measures;*** Rule XXV, paragraph 1

A committee with legislative jurisdiction under Rule XXV has "leave to report by bill or otherwise" on matters within its jurisdiction. In other words, the committee is authorized to originate bills and resolutions in addition to reporting measures previously introduced and referred to it.

***Committee amendments;*** Rule XV, paragraph 5

It is not in order for a committee to report an amendment (except for a "technical, clerical, or conforming amendment") which contains "any significant matter" that is not within its jurisdiction.

This prohibition does not apply to provisions of an original bill that a committee reports.

***Quorum for reporting;*** Rule XXVI, paragraph 7(a)(1)

A majority of a committee must be physically present when the committee votes to order the reporting of any measure, matter, or recommendation.

***Vote required to report;*** Rule XXVI, paragraph 7(a)(3)

The motion to order the reporting of a measure or matter requires the support of a majority of the members who are present (and in turn, the members who are physically present must constitute a majority of the committee; see *Quorum for reporting*, above).

***Proxy votes on reporting;*** Rule XXVI, paragraph 7(a)(3)

A committee may adopt a rule prohibiting the use of proxies in votes to order a measure or matter reported.

If a committee permits the use of proxies on such votes, the preceding two requirements continue to apply. Thus, "[t]he Chair has ruled that a report not authorized by the concurrence of more than one-half of a majority of the entire membership of the committee,



exclusive of proxies, cannot be received by the Senate upon objection." (*Riddick's Senate Procedure*, p. 1198.)

***Ratification of prior actions;*** Rule XXVI, paragraph 7(a)(3)

When a committee orders a measure or matter reported in accordance with the three immediately preceding rules, that action has the effect of ratifying previous committee actions on the measure or matter. So after a measure has been reported properly, a Senator may not make a point of order based on some action or inaction that occurred before the vote on reporting it.

***Contents of committee reports***

The following requirements concern the content of committee reports on legislation. However, the Senate's rules do not require a committee to file a written report when it reports a bill or resolution to the Senate. (*Riddick's Senate Procedure*, p. 1201.) Consequently, these requirements apply to a written committee report only when the committee chooses to prepare and file one.

***Other views;*** Rule XXVI, paragraph 10(c)

A committee member is entitled to have his or her supplemental, minority, or additional views included in the committee's report on a measure or matter, but only if the committee member (1) gives notice of his or her intent to do so at the time the committee orders the measure or matter reported, and (2) files his or her views in writing within three days after the committee vote.

This provision does not apply to the Appropriations Committee.

***Rollcall votes taken;*** Rule XXVI, paragraphs 7(b) and (c)

A committee report on a measure shall contain the results of any rollcall votes taken on the measure and amendments to it, and on the motion to order it reported, including the names of Senators voting yea and nay. This requirement does not apply if the results have been "previously announced by the committee."

***Cost estimate;*** Section 308(a) of the Congressional Budget Act, as amended

The report on a measure or committee amendment that would provide new budget, direct spending, or credit authority, or change revenues or tax expenditures is to include (1) appropriate comparisons with allocations under Section 302(b) or 602(b) of the Budget Act, (2) an identification and justification of any direct spending provisions, (3) a cost estimate by the Congressional Budget Office (CBO) covering the fiscal years affected and the following four fiscal years, and (4) an

estimate, also prepared by CBO, of new budget authority provided for assistance to State and local governments.

This requirement does not apply to continuing resolutions, and the third and fourth items need to be included only if they are "timely submitted" by CBO.

These requirements of the Budget Act largely supersede paragraph 11(a) of Rule XXVI which requires that the committee report on a public bill or joint resolution is to include an estimate of the cost of implementing the measure in that fiscal year and in each of the next five fiscal years if applicable, or of the revenue gain or loss for a one-year period. The report also should include a comparison of this estimate with any estimate made by another federal agency.

The requirement of Rule XXVI, paragraph 11(a) does not apply to the Appropriations and Budget Committees, nor does it apply to reports on Senate or concurrent resolutions or on private measures. Furthermore, any committee need not comply if it states in its report why compliance would be "impracticable."

**"Cordon Rule" print; Rule XXVI, paragraph 12**

The committee report accompanying any measure that would repeal or amend an existing law is to show what the measure proposes to repeal, and, using appropriate typographical devices, how the existing law would be amended by the bill if it were enacted as reported.

A committee may dispense with this requirement if it states in its report that doing so is necessary "to expedite the business of the Senate."

**Regulatory impact statement; Rule XXVI, paragraphs 11(b) and (c)**

The report on a public bill or resolution is to include an evaluation of the measure's anticipated impact in several respects: (1) its regulatory impact on individuals and businesses, (2) the economic effects of its regulatory impact, (3) its impact on personal privacy, and (4) the amount of paperwork and recordkeeping it will require.

This requirement does not apply to the Appropriations and Budget Committees, nor does it apply to reports on Senate or concurrent resolutions or on private measures. Furthermore, any committee need not comply if it states in its report why compliance would be "impracticable."

A Senator may make a point of order against considering a bill if the report accompanying it does not comply with this requirement.

**Impact on Congress;** 105 Stat. 1099, PL 102-166

The report accompanying a public bill or resolution is to contain a "listing of the provisions of the bill or joint resolution that apply to Congress and an evaluation of the impact of such provisions on Congress." This requirement does not apply to the Appropriations and Budget Committees.

***Report on jointly referred measure;*** Rule XVII, paragraph 3(c)

There may be only one report on a bill that was referred jointly to two or more committees. The report may be printed in several numbered parts prepared by different committees.

***Timely filing of reports;*** Rule XXVI, paragraph 10(b)

It is the chairman's duty to ensure that a measure his or her committee has ordered reported actually is reported promptly to the Senate. The chairman also is "to take or cause to be taken necessary steps to bring the matter to a vote."

A majority of a committee may require in writing that a measure the committee has approved be reported to the Senate within seven calendar days (excluding days on which the Senate is not in session).

These provisions do not apply to the Appropriations Committee.

***Layover requirements;*** Rule XVII, paragraphs 4(a) and 5

There are two distinct layover requirements. First, a measure or matter reported from committee is to lie over for one legislative day before the Senate may consider it. Second, the written report on the measure or matter (if there is a written report) is to be available to Senators for two calendar days (excluding Sundays and legal holidays) before the Senate begins considering the measure or matter.

The two calendar day requirement may be waived jointly by the Majority and Minority Leaders and does not apply to declarations of war or national emergency or to joint resolutions of disapproval that are effective only if enacted within statutory deadlines.

**RELATED CRS REPORTS**

*The Committee System in the U.S. Congress.* Report 94-702; August 29, 1994.

*The Congressional Standing Committee System.* Report 93-920; October 15, 1993.

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