

An hourglass-shaped graphic with a globe in the top bulb and another globe in the bottom bulb. The hourglass is light blue and has a dark blue cap at the top. The globe in the top bulb is dark blue, and the globe in the bottom bulb is light blue. The text is centered within the hourglass.

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Report 98-311

Senate Rules Affecting Committees

Betsy Palmer, Government and Finance Division

November 26, 2007

Abstract. This report lists and explains the provisions of Senate rules that affect the conduct of legislative activity in all or most of the Senate's standing committees.

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Senate Rules Affecting Committees

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CRS Report for Congress

Prepared for Members and Committees of Congress

Summary

The Senate imposes some general procedural requirements and prohibitions on its committees, but, in general, the Senate's rules allow each of its standing committees to decide how to conduct its legislative business. Most of the chamber's requirements for committees are found in Senate Rule XXVI. Because the committees are the agents of the Senate, they are obligated to comply with all Senate directives that apply to them.

This report identifies and summarizes the provisions of the Senate's standing rules, standing orders, precedents, and other directives that relate to legislative activity in the Senate's standing committees. The report covers four main issues: committee organization, committee meetings, hearings, and reporting. The coverage of this report is limited to requirements and prohibitions that are of direct and general applicability to most or all Senate committees, as they consider most legislative matters.

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 (1) 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 governing budget resolutions and reconciliation and rescission measures; or (2) only to certain limited classes of measures, such as provisions of the Congressional Accountability Act and the Federal Advisory Committee Act.

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Introduction¹

The Senate imposes some general procedural requirements and prohibitions on its committees, but, in general, the Senate's rules allow each of its standing committees to decide how to conduct its legislative business. Most of the chamber's requirements for committees are found in Senate Rule XXVI. Because the committees are the agents of the Senate, they are obligated to comply with all Senate directives that apply to them.

This report identifies and summarizes the provisions of the Senate's standing rules, standing orders, precedents and other directives that relate to legislative activity in the Senate's standing committees. The report covers four main issues: committee organization, committee meetings, hearings, and reporting. The coverage of this report is limited to requirements and prohibitions that are of direct and general applicability to most or all Senate committees, as they consider most legislative matters.

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This report 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.

Organization

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 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.

If a committee later adopts an amendment to its rules, that amendment only becomes effective when it is published in the *Record*.

¹ This report was written by Stanley Bach, formerly a Senior Specialist in the Legislative Process at CRS. The listed author updated the report and is available to answer questions concerning its contents.

Committee records; Rule XXVI, paragraph 7(b)

Each committee, except for the Appropriations Committee is to keep a record of its actions, including rollcall votes taken.

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. Committees do not have unlimited authority to meet when the Senate also is meeting.

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 2 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 the Senate routinely waives it for other committees by unanimous consent. It also may be waived by a joint agreement of the Majority and Minority Leaders or their designees. In every instance in which the prohibition is waived, the Majority Leader or designee is to announce on the floor the time and place of the meeting.

If agreement between the Majority and Minority leader cannot be reached, the rules also provide that the Senate can vote to allow a committee to meet while the Senate is in session. It is a rarely used tool. “[I]leave 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.)

Regular meeting day; Rule XXVI, paragraph 3

Each committee must designate a regular day on which to meet weekly, biweekly or monthly. This requirement does not apply to the Appropriations Committee. In practice, committees do not always convene on the specified meeting date. Many committees meet at more frequent intervals than specified in their rules.

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 3 calendar days in which to schedule the meeting, which is to take place within the next 7 calendar days. If the chairman fails to do so, a majority of the committee members can file a written motion to hold the meeting at a certain date and hour. This is a rarely used device. However, the expectation that Senators are prepared to invoke it may encourage committee chairmen to schedule meetings sought by other committee members.

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Scheduling meetings; Standing Orders of the Senate; Section 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. (See *Public Announcement*, below.)

Open meetings; Rule XXVI, paragraph 5(b)

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

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.

When a committee member believes that a 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 same procedures and criteria apply to a subcommittee meeting and a series of committee or subcommittee meetings on the same subject that may extend over no more than 14 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 physically 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 for that purpose until order is restored.

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

A committee may adopt rules permitting proxy voting (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. Except with respect to closed meetings, each committee and subcommittee shall make publicly available through the Internet a video recording, audio recording, or transcript of any meeting not later than 21 business days after the meeting occurs. This information shall be available until the end of the Congress following the date of the meeting.

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, though any committee may waive this requirement for “good cause.” (See *Scheduling Meetings*, above.)

This requirement does not apply to the Appropriations and Budget Committees.

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

A committee or subcommittee may set its own quorum requirement of less than one-third of the members “for the purpose of taking sworn testimony.” The Standing Rules do not set a minimum quorum for this purpose. Several committee rules allow sworn testimony to be taken with just one member in attendance. (See *Quorum at a meeting* and *Quorum for Reporting*, below.)

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.

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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 may be open to radio and television broadcasting. However, committees and subcommittees may adopt rules to govern how the media may broadcast the event.

Printing of hearings; Rule XXVI, paragraph 10(a), Rule XXVI, paragraph 5(e)

Each committee is authorized to print its hearing records as well as material submitted at hearings for the record. Records of the committee belong to the Senate and are open for review by any member of the Senate. Such records should be kept separately from the records of the chairman of the committee. Except with respect to closed meetings, each committee and subcommittee shall make publicly available through the Internet a video recording, audio recording, or transcript of any meeting not later than 21 business days after the meeting occurs. Such information shall be available until the end of the Congress following the date of the meeting.

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

A Senator may raise an objection to a measure reported out of committee if it contains an amendment which contains “any significant matter” that is not within the committee’s jurisdiction, except for a “technical, clerical, or conforming amendment.”

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. (See *Quorum at hearing* and *Quorum at meeting*, above.)

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. 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.) However, if a written report is filed, Senate Rules and statutes specify certain items that must be included.

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.

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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

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 4 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.

“Cordon Rule” print; named after Senator Guy Cordon, its Senate sponsor, 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.

Applicability to Congress; Section 102(b)(3) of P.L. 104-1

The report accompanying a bill or resolution “relating to terms and conditions of employment or access to public services or accommodations” is to describe how the provisions of the measure apply to Congress or why they do not.

A point of order can be made against Senate consideration of a measure if the accompanying report does not comply with this requirement, but the requirement may be waived by majority vote.

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

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 2 calendar days (excluding Sundays and legal holidays) before the Senate begins considering the measure or matter.

The 2 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.

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