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Introducing a Senate Bill or Resolution

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Summary

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 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 Senate Rule XXV. Multiple referral is rare in the Senate due to Senate 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 committee and party leaders, 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. See also CRS Report RS21169, *Sources of Legislative Proposals: A Descriptive Introduction*, by Judy Schneider.

[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. Additional information on Senate floor procedures can be found in 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 (including 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. 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. 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.

Drafting Legislation

There is no Senate rule that introduced bills and resolutions must be prepared by the Office of the Legislative Counsel. Senators can receive drafts of bills from executive officials, interest groups, and others. Still, 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

[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 Senate's legislative agenda and schedule.

[5] For information on the enforcement of budget rules, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno. For an overview of the federal budget process, see CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated 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 98-706, *Bills and Resolutions: Examples of How Each Kind Is Used*, by Richard S. Beth.

[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.

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 Legislative Counsel at any stage. 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.[8]

The number of requests to draft bills and amendments has nearly doubled over the past 10 years, 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 Senate 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. It is this latter category into which many introduced bills will fall. 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.[9]

Seeking Cosponsors

When Senators introduce a measure, they commonly attach a form listing the names of cosponsors.[10] Cosponsorship signifies a Senator's support for the proposal. Prior to its introduction, Senators may cosponsor a measure by contacting the office of the legislative sponsor and requesting that their names be added to 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.

A "Dear Colleague" letter sent to most or all Senators is a common technique for informing Senators of the pending introduction of a bill or resolution, and for soliciting support. Typically, these letters briefly state the issue the measure addresses, the measure's significant features, and an appeal to become a cosponsor. These letters almost always include the name and telephone number of a staff aide to contact about cosponsoring the bill.[11]

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[8] Additional information on the Office of Legislative Counsel and the drafting services it provides can be found in CRS Report RS20856, *Office of Legislative Counsel: Senate*, by Matthew E. Glassman, as well as on the office's website, at http://www.slc.senate.gov/.

[9] 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.

[10] Cosponsorship forms are available for download in portable document format (PDF) at http://webster.senate.gov.

[11] For further information on these practices, see CRS Report 98-279, *Sponsorship and Cosponsorship of Senate Bills*,

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.[12] 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. Between 1973 and 2016, Senators introduced an average of about 40 bills and resolutions per Congress.[13] Statistics on introduced bills and resolutions are provided in **Table 1**.

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.

Although rare, a Senator may object to the introduction of a bill or joint resolution. 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 committee jurisdictions set forth in Senate Rule XXV. Under the provisions of Senate 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 subject matter is determined, which at times can arouse inter-committee disagreements as only a single subject can be considered predominant. Multiple referral occurs only occasionally in the Senate on account of Rule XVII, and in almost all cases is made by unanimous consent or standing order.[15] When

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by Mark J. Oleszek, and CRS Report RL34636, *"Dear Colleague" Letters: Current Practices*, by Jacob R. Straus.

[12] *Congressional Record*, vol. 161, part 28 (January 6, 2015), S9. 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.

[13] This number includes bills (S.), joint resolutions (S.J.Res.), concurrent resolutions (S.Con.Res.), and simple resolutions (S.Res.).

[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.

[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. For further information on the referral of measures in the Senate, see CRS Report 98-242, *Committee Jurisdiction and Referral in*

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 messaged to 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]

Statistics on Introduced Measures

The number of bills and resolutions introduced in the Senate fluctuates over time as **Table 1** shows. There is little reason to expect that the demand for legislation would stay constant over this period; new issues arise, those that exist are dealt with, and old issues fade away. The 109th Congress (2005-2006) reached a high point with 4,869 introductions, while the 104th Congress (1995-1996) falls at the lower end of recent congresses with 2,628 introduced bills and resolutions.

Most introduced measures are bills, as shown in the second column of **Table 1**. Only bills and joint resolutions can make or change law; concurrent and simple resolutions are used primarily to address internal matters of one or both chambers. For instance, a concurrent resolution is used to organize a joint session of Congress to receive the President's State of the Union address. A simple resolution would be appropriate to address Senate-related matters, such as proposals to amend the standing rules of the chamber. Legislation to honor or celebrate an individual, group, or event may also be drafted as a simple or concurrent resolution.

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. The relevant committee chair is generally considered the sponsor in these instances, although the measure is perhaps best understood as a product that incorporates views and input from other committee members as well. Original bills may not have cosponsors.

the Senate, by Judy Schneider.

[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 RS22299, *Bypassing Senate Committees: Rule XIV and Unanimous Consent*, by Michael L. Koempel. On the Senate's calendar of Business, or legislative calendar, see CRS Report 98-429, *The Senate's Calendar of Business*, coordinated by Elizabeth Rybicki.

Table 1. Statistics on Introduced Measures, 1973-2016

Senate (Years)	Number of Introductions	Bills Introduced	Joint Resolutions Introduced	Concurrent Resolutions Introduced	Simple Resolutions Introduced	Introductions per Senator
93rd (1973-74)	4,340	3,552	263	125	400	43
94th (1975-76)	4,234	3,291	215	212	516	42
95th (1977-78)	3,861	3,017	169	115	560	39
96th (1979-80)	3,620	2,728	214	139	539	36
97th (1981-82)	3,599	2,691	272	135	501	36
98th (1983-84)	3,720	2,753	358	154	455	37
99th (1985-86)	3,778	2,692	431	175	480	38
100th (1987-88)	3,818	2,756	395	170	497	38
101st (1989-90)	4,089	3,184	388	159	358	41
102nd (1991-92)	4,185	3,330	346	143	366	42
103rd (1993-94)	3,121	2,515	232	80	294	31
104th (1995-96)	2,628	2,165	65	74	324	26
105th (1997-98)	3,123	2,619	60	130	314	31
106th (1999-00)	3,843	3,233	56	162	392	38
107th (2001-02)	3,734	3,153	53	160	368	37
108th (2003-04)	3,679	2,998	42	152	487	37
109th (2005-06)	4,869	4,071	41	123	634	49
110th (2007-08)	4,582	3,700	46	107	729	46
111th (2009-10)	4,846	4,019	42	78	707	48
112th (2011-12)	4,426	3,680	51	65	630	44
113th (2013-14)	3,680	2,988	47	44	601	37
114th (2015-16)	4,274	3,533	41	58	642	43
Senate Average	3,912	3,122	174	125	491	39

Source: Legislative Information System (LIS)

Notes: The column "Number of Introductions" includes all public bills (S.), joint resolutions (S.J.Res.), concurrent resolutions (S.Con.Res.), and simple resolutions (S.Res.) introduced in the Senate during each two-year period. This includes measures that committees reported as original bills. "Introductions per Senator" was calculated by dividing the number of introductions during each period by the membership of the Senate. On this measure, committee chairs tend to be more frequent sponsors than non-chairs in part because original bills produced by Senate committees and reported to the full chamber are considered to be sponsored by the chair of the relevant committee.

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A short version of this report was originally prepared by former CRS Specialist Richard C. Sachs. Congressional clients may direct any inquiries to the current author.

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