



CRS Report for Congress

Ordering a Rollcall Vote in the Senate

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Eleven Senators usually can require that the Senate conduct a rollcall vote (also called a vote by “the yeas and nays”) to decide whatever question it is considering. The Senate can agree to order a rollcall vote on a question at any time that the Senate is debating that question. The time at which the yeas and nays are ordered does not determine or affect the time at which that vote will take place.

The authority for Senators to obtain rollcall votes derives from Article I, section 5, clause 3 of the Constitution, which states in part that: “the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present, be entered on the Journal.” The Constitution also provides that “a majority of each [house] shall constitute a quorum to do business.” Therefore, “one fifth of those present” to order the yeas and nays must be one-fifth of at least 51 Senators (or at least 11 Senators), which is the minimal majority required to satisfy the constitutional quorum requirement. A smaller number of Senators cannot order a rollcall vote, even by unanimous consent, because the Senate is not empowered to set aside this or any other constitutional requirement governing its proceedings.

At any time that the Senate is considering a question—whether that question is a bill, amendment, motion, conference report, or something else—any Senator who has the floor can “ask for the yeas and nays” on that question. This is the constitutional right of any Senator, and no other Senator can object to the request.

It requires unanimous consent to ask for the yeas and nays on a question that is not formally before the Senate for consideration. For example, unanimous consent is needed to ask for the yeas and nays on final passage of a bill while the Senate is debating a motion to proceed to the consideration of that bill. Similarly, if several first- and second-degree amendments have been offered, then except by unanimous consent, it is in order to ask for the yeas and nays only on the amendment that is the pending question—that is, the first amendment on which the Senate is to vote. However, a Senator may ask for the yeas and nays on final passage of a bill while an amendment to the bill is pending.

When a Senator asks for the yeas and nays, the presiding officer responds by asking, “Is there a sufficient second?” Senators who support the request for a rollcall vote then raise their hands to be counted. The support of 11 Senators—one-fifth of the minimal quorum of 51—almost always constitutes a sufficient second because the Senate always



presumes that a minimal quorum is present, unless and until a call of the roll documents that a quorum is not present. There is one circumstance in which the support of more than 11 Senators is required. Under the Senate's precedents, when the request for the yeas and nays occurs immediately following a live quorum call or another rollcall vote, the number needed to second the request is one-fifth of however many Senators responded to the quorum call or participated in the rollcall vote. The assumption in such cases is that all those Senators are still present on the floor. This precedent rarely is invoked in practice.

The presiding officer counts the number of Senators who have raised their hands, and if that constitutes at least the required number, the presiding officer states that: "There is a sufficient second. The yeas and nays are ordered." If there is not a sufficient second, any Senator can again request a rollcall vote on that question later during the debate on it. For example, the request for the yeas and nays can be renewed after a quorum call has intervened.

As noted at the outset, the time at which a rollcall vote is ordered on a question does not control the time at which that vote will take place. Ordering the yeas and nays on a question only establishes that whenever the time comes to vote on that question, the vote will take place by a call of the roll. A Senator who has offered an amendment, for example, may ask for the yeas and nays on it as soon as the amendment has been read, or at any time that there appears to be a sufficient number of Senators present to second the request. After the yeas and nays have been ordered on an amendment or on final passage of a bill, Senators may continue debating and proposing amendments to it. Ordering the yeas and nays on an amendment does not preclude a Senator from moving to table the amendment. Even if a rollcall vote has been ordered on an amendment, the yeas and nays must be ordered separately on a motion to table that amendment.

Sometimes the yeas and nays may be requested on amendments for tactical reasons. Before the yeas and nays have been ordered on an amendment, the Senator who offered the amendment has the right to modify that amendment at will; neither unanimous consent nor a majority vote is required. However, that Senator cannot offer an amendment to his or her own amendment. Once the yeas and nays on the amendment have been ordered, the amendment's sponsor has lost the right to modify the amendment but has gained the same right enjoyed by every other Senator to propose an amendment to the amendment. Thus, if a Senator wants to offer a second-degree amendment to his or her own first-degree amendment, that Senator normally asks for the yeas and nays on the first-degree amendment.

If the yeas and nays on a question are not ordered, the presiding officer will put that question to a voice vote and then announce the outcome of that vote. In principle, a Senator can ask for the yeas and nays on a question after the voice vote has taken place but before the presiding officer has announced the final result of the vote. In practice, however, if Senators want to have a rollcall vote on the question they are debating, the yeas and nays usually are ordered before the process of voting on that question begins.

There are some questions that must be decided by rollcall votes. For example, the Constitution requires that the vote on overriding a presidential veto "shall be determined by yeas and nays." Also, paragraph 2 of Standing Rule XXII, the Senate's cloture rule, requires that votes on invoking cloture be decided by call of the roll.