



MEMORANDUM

November 19, 2009

To: Honorable Tom Coburn
Attention: Roland Foster

From: Richard S. Beth, Specialist on Congress and the Legislative Process, x78667

Subject: **Rates of Senate Passage of Measures in Relation to Which Cloture Was Invoked, 106th-110th Congresses**

This memorandum responds to your request for information on the percentage of measures on which cloture was invoked during the past decade that ultimately passed the Senate. In accordance with your instructions, it examines only cases in which cloture was invoked either on the measure itself or on a motion to proceed to consider the measure. Figures for measures on which cloture was invoked on a motion to proceed are presented in a separate table from those on which cloture was invoked on the measure itself. Measures on which cloture was invoked on both questions are included in both tables. In each table, no account was taken of cases in which cloture was only rejected, or in which cloture was sought, but no cloture vote occurred.

Consistent with the focus on cloture on measures or motions to proceed, the data presented also take account only of Senate action on initial consideration of measures. Measures are included without regard to the presence or absence of any Senate action on a final version proposed in a conference report or in a motion to dispose of amendments between the houses, whether or not cloture may have been invoked in the course of considering the final version. In addition, the data presented address only legislative measures, taking no account of Senate action on nominations in relation to which cloture may have been invoked.

Further, the data presented take no account of cases in which cloture was invoked on an amendment, even an amendment in the nature of a substitute for the full text of a measure. In particular, as a result, the data do not include several cases, noted in the course of compiling the figures presented, in which the Senate invoked cloture on an amendment in the nature of a substitute and adopted the substitute, but then passed the measure in the form provided for by the substitute without cloture being invoked, or perhaps even sought, on the measure itself.

In a few instances, cloture was invoked more than once on the same measure, or on more than one motion to proceed to consider the same measure. In addition, the Senate occasionally invoked cloture on a measure (or on a motion to proceed to its consideration) after having previously rejected cloture on the same question. In unusual circumstances, finally, the Senate may have rejected cloture on a measure (or on a motion to proceed to its consideration) after having previously invoked it on the same question. All cases in which the Senate ever invoked cloture are included in the data below, regardless of whether it also rejected cloture on the same question at another, earlier or later, point.

In some instances, the Senate invoked cloture on a Senate bill (or on a motion to proceed to its consideration) but, at the point of final passage, laid the Senate bill aside and instead acted on a House-passed companion bill that was already in possession of the Senate, usually after amending the House bill to reflect the text of the Senate measure. In these cases the Senate technically never takes final action on the measure on which cloture was actually invoked. However, inasmuch as these proceedings usually represent a routine step in beginning the process of resolving differences between the Senate and House versions of a bill, cases in which final Senate action occurred on the House bill are included in the data on the same basis as those in which the final Senate action occurred on the Senate bill on which cloture was actually invoked.

In accordance with your instructions, cases are excluded from the data in which, after the Senate invoked cloture on a measure (or on a motion to proceed to its consideration), it never took any final action to pass or reject the measure. The data presented, accordingly, include only cases in which, after invoking cloture on a measure, the Senate in the end either passed or rejected the measure. Very few instances appear in the data in which the Senate rejected a measure after invoking cloture. Rather, the data presented indicate that most measures in relation to which cloture was invoked, but that did not pass, failed of passage because they were withdrawn from floor consideration, or the Senate turned to other business, before a final vote could occur. In accordance with your instructions, instances of these proceedings are excluded from the data presented below. The inclusion of cases in which cloture was invoked on a motion to proceed would somewhat reduce the proportion of measures on which cloture was invoked that were then passed by the Senate. The inclusion of cases in which cloture was invoked on the measure itself, however, would make little difference. Over the time period studied, when the Senate invoked cloture on a measure itself, it almost always proceeded to a final vote on the measure and passed it.

During the time period examined, the only measure rejected by the Senate after cloture was invoked on a motion to proceed to its consideration was S. 1805 of the 108th Congress, the Protection of Lawful Commerce in Arms Act. The only measure the Senate rejected after invoking cloture on the measure itself during the period was S.J.Res. 14 of the 106th Congress, a proposed constitutional amendment to prohibit physical desecration of the flag, which failed of the two-thirds majority required for a constitutional amendment.

I trust this information meets your needs on this matter.

Table 1. Disposition of Measures with Respect to Which Cloture was Invoked on a Motion to Proceed to Consider, 106th-110th Congress

Congress and (Years)	Total Measures on which Cloture was Invoked on a Motion to Proceed	No Final Vote on Measure	Measure Passed	Measure Rejected	Total Measures with Final Vote (Passed or Rejected)	Percent Passed of Measures with Final Vote
106 (1999-2000)	13	4	9	0	9	100%
107 (2001-2002)	9	2	7	0	7	100
108 (2003-2004)	3	0	2	1	3	66.7
109 (2005-2006)	7	2	5	0	5	100
110 (2007-2008)	27	10	17	0	17	100
Totals	59	18	40	1	41	97.6%

Source: Internal CRS compilations and Legislative Information System of the U.S. Congress (LIS).

Table 2. Disposition of Measures on Which Cloture was Invoked on the Measure Itself, 106th-110th Congress

Congress and (Years)	Total Measures on Which Cloture was Invoked on the Measure Itself	No Final Vote on Measure	Measure Passed	Measure Rejected	Total Measures with Final Vote (Passed or Rejected)	Percent Passed of Measures with Final Vote
106 (1999-2000)	2	0	1	1	2	50%
107 (2001-2002)	10	0	10	0	10	100
108 (2003-2004)	2	0	2	0	2	100
109 (2005-2006)	14	0	14	0	14	100
110 (2007-2008)	10	1	9	0	9	100
Totals	38	1	36	1	37	97.3%

Source: Internal CRS compilations and Legislative Information System of the U.S. Congress (LIS).