

“Holds”

A hold is a device by which Senators can block or delay action on a treaty, nomination or legislation, merely by telling their party leader that they want to delay floor action on the matter in question. Whether to grant that request is a decision of the leaders.

Nowhere in the written Senate rules is the tradition of “holds” to be found, and it is not clear when the practice began. The very nature of the holds process gives the majority and minority leaders a great deal of discretion in deciding whether to honor a request for a hold and, if so, for how long. However, implicit in a request for a hold is the ability of a Senator to use parliamentary tools to filibuster or to delay consideration of the nomination or legislation at issue. Also implicit in a request for a hold is the desire of the Senator to be consulted by party leadership on the matter subject to the hold. Holds can sometimes kill a nomination, but more frequently they delay action.⁴³

Whether a Senator has placed a hold on a nomination or legislation is not publicly available information, and the information is closely held by the two party leaders.⁴⁴ Only when a Senator announces that he or she has placed a hold on a measure or a matter does the information become public.

Because every Senator can place a hold at any time for any reason, situations can get complicated with “multiple holds” and “counter holds.” Consider the following situation:

[I]n 1997, then-Senator Carol Moseley-Braun, a Democrat, put a hold on President Clinton’s nomination of Joe Dial for another term on the Commodity Futures Trading Commission (CFTC), precluding the nomination from being voted on before the end of the congressional session and thereby killing the nomination for good. In retaliation, Republican Senator Phil Gramm, a friend of Dial’s, maintained as of the spring of 1998 a hold on two judicial nominees for the state of Illinois. In retaliation against Gramm’s hold, Illinois’s other Democratic Senator, Richard Durbin, blocked the Senate’s consideration of a Republican education bill, pending final Senate action on the two judicial nominees from Illinois. The logjam ended, however, at the end of March 1998, when President Clinton agreed to nominate a Republican to the CFTC seat to which Dial had not been appointed. Almost immediately thereafter, Senator Gramm released his hold on the two Illinois judicial nominees, who were easily confirmed in early April 1998.⁴⁵

⁴³ CRS Report 98-712, “Holds” in the Senate, by Walter J. Oleszek.

⁴⁴ Ibid.⁴⁵ Gerhardt, *The Federal Appointments Process*, pp. 140-141.

⁴⁶ “Cloture Rule Debate,” *Congressional Record*, vol. 95, parts 1-3 (between Jan. 10, 1949 through Mar. 15, 1949), pp. 73-2510.