

Which of the following acts by the United States Senate would be constitutionally IMPROPER?

- A. The Senate appoints a commission to adjudicate finally a boundary dispute between two states.
- B. The Senate decides, with the House of Representatives, that a disputed state ratification of a proposed constitutional amendment is valid.
- C. The Senate determines the eligibility of a person to serve as a senator.
- D. The Senate passes a resolution calling on the President to pursue a certain foreign policy.

Explanation:

Independent legislative powers

(legislative-action process not required)

| Legislative body | Powers |
|--------------------------|--|
| House of Representatives | <ul style="list-style-type: none">• Impeach federal officials• Elect President (when electoral-college threshold not met)• Determine internal rules & members' eligibility• Punish/expel members for bad behavior |
| Senate | <ul style="list-style-type: none">• Try impeached federal officials• Confirm/reject presidential appointments• Approve/reject treaties• Determine internal rules & members' eligibility• Punish/expel members for bad behavior |
| Full Congress | <ul style="list-style-type: none">• Propose constitutional amendments• Decide disputes regarding ratification of amendments |

Article I prescribes the method Congress (ie, the House of Representatives and the Senate) must use to take any action that alters the legal rights of persons outside the legislative branch (ie, [legislative action](#)). Under this method, **most legislative action must be:**

- approved by both houses of Congress (ie, **bicameralism**) and
- presented to the President for approval or disapproval (ie, **presentment**).

But **certain legislative powers** are independent and **do not require bicameralism and/or presentment**. These include:

- the power of the Senate, together with the House of Representatives, to decide disputes regarding the ratification of amendments (no presentment required) **(Choice B)** and
- the power of the Senate to determine a person's eligibility to serve as a senator (no bicameralism or presentment required) **(Choice C)**.

These independent legislative powers do *not* include the power to appoint a commission to adjudicate boundary disputes between two states. Therefore, it would be constitutionally improper for the Senate to do so without adhering to bicameralism and presentment.

(Choice D) A resolution does not amount to legislative action because it is a *nonbinding* recommendation that has no effect on the legal rights of persons outside the legislative

branch. Therefore, the Senate can pass a resolution calling on the President to pursue a certain foreign policy without adhering to bicameralism or presentment.

Educational objective:

Absent narrow exceptions, all legislative action must be approved by both houses of Congress (ie, bicameralism) AND presented to the President for approval or disapproval (ie, presentment).

References

- Coleman v. Miller, 307 U.S. 433, 456 (1939) (explaining that Congress controls the promulgation of the adoption of constitutional amendments).
- INS v. Chadha, 462 U.S. 919, 952 (1983) (explaining that legislative action is subject to bicameralism and presentment when Congress alters the legal rights, duties, and relations of persons outside the legislative branch).

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