

The Federal Legislative Process: Understanding the Beltway

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How Laws Are Made

- Article 1, Section 1 - “All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives”.
- Article 1, Section 5 – authorizes each House to determine its own rules.

Forms of Congressional Action

- Bills – (H.R. 1 , S.1)
 - form used for most legislation whether permanent, temporary, general, special, private or public
- Joint Resolutions – (H.J.Res.1, S.J.Res. 1)
 - little practical difference from a bill
 - Treated same as bill unless proposes an amendment to the Constitution
 - 2/3 from both chambers and $\frac{3}{4}$ ratification of states
 - not presented to President for approval

Forms of Congressional Action

- Concurrent Resolutions – (H.Con.Res.1 , S.Con.Res.1)
 - Often used to express the sense of both chambers
 - To set annual budget
 - To fix adjournment dates
 - Not signed by the President and therefore do not hold the weight of law

Forms of Congressional Action

- Simple Resolution (H.Res.1, S.Res.1)
 - A matter concerning the operation of either the House or Senate alone

How Laws Are Made

Legislation is Introduced

- Initiated in either chamber
 - Senate or House of Representatives
- Bill Drafting
 - Senator, Representative, White House, State Legislatures, Organizations, Scholars, Constituents
- Bill Sponsor
 - **House**: legislation is handed to the clerk of the House or placed in the “hopper” (a box)
 - **Senate**: Members must gain recognition of the presiding officer to announce the introduction of a bill.
 - If any senator objects, the introduction of the bill is postponed until the next day.
 - Senate bills can be jointly sponsored
 - Members can cosponsor the piece of Legislation

How Laws Are Made

- The bill is assigned a number
 - HR 1 or S1
- The bill is labeled with the sponsor's name
- Sent to Government Printing Office (GPO) and copies are made

Committee Action

- Bill is referred to appropriate committee by the Speaker of the House or presiding officer in the Senate.
- Actual referral decision generally made by House or Senate parliamentarian.
- Bills may be referred to more than 1 committee or parts split and sent to different committees
- Bills placed on committee calendar
- Failure to act is equivalent to killing the bill

Committee Action

- Committee Steps:
 - Most commonly, full committee will further refer to one of its subcommittees
 - Full Committee or Subcommittee may:
 - Request reports from government agencies or departments
 - Hold hearings
 - “mark-ups” may occur – adopt revisions/additions
 - Bill is reported back to full chamber for floor action

Floor Action – Placed on Calendar

- A list of bills awaiting action
- HOUSE
 - placed on calendar in order received
 - Speaker and Majority Leader decide what will reach the floor and when
- SENATE
 - Scheduling is the job of the Majority Leader
 - Bills can be brought to the floor whenever a majority of the Senate chooses

Floor Action - Debate

- House
 - Debate limited by Rules Committee rules
 - Debate is guided by sponsoring committee
 - Time equal between proponents and opponents
 - Amendments must be germane to the subject of the bill
 - Bill reported back to House and voted on
 - 218 members (435 total) must be present for a final vote (quorum call)
 - If less than 218, House will adjourn and Sergeant of Arms will round up missing members.

Floor Action - Debate

- Senate
 - A simple majority (51 of 100) passes the bill
 - Debate is unlimited unless cloture is invoked
 - End debate with 3/5 of full Senate / 60 votes – difficult to get
 - Limits debate to an additional 30 hours
 - Unless cloture is invoked, Senators can filibuster to defeat a measure by “talking it to death”
 - Strom Thurmond filibustered for 24 hours and 18 minutes against the Civil Rights Act of 1957.
 - Recite Shakespeare, read recipes.....
 - Amendments need not be germane
 - Entire bills can be offered as amendments to other bills

Floor Action - Vote

A bill cannot become a law of the land until it has been approved in IDENTICAL form by both houses of Congress.

Floor Action – Vote

- If passed the bill is sent to the other chamber unless that chamber already has a similar measure under consideration
- If either chamber does not pass – bill dies
- If both Houses pass the same bill it's sent to the President for signature
- If differences exist, bill sent to Conference Committee.
 - Most major legislation goes to Conference

Conference Committee –

Third House of Congress

- Members from each house form the committee
 - Generally made up of senior members who are appointed by the presiding officers of the committee that originally dealt with bill
- Meet to work out differences
- If compromise is reached a written conference report is generated and submitted to each chamber
- Conference report sent back to both House and Senate for final approval
- Bill is signed by Speaker of House and Vice President

The President

- Bill becomes law:
 - If signed by the President within 10 days
 - If not signed within 10 days and Congress is in session
 - If Congress not in session the bill does not pass = “pocket veto”
 - If President vetoes, the bill can still become law if 2/3 of the Senate and 2/3 of the House approve the bill.

Bill Becomes Law

- Once signed by President or his veto is overridden by both houses the bill becomes law and is assigned an official number.

Major Differences in Two Houses

House	Senate
435 members serving 2-year terms	100 members serving rotating 6-year terms
Speaker's referral of bills to committee hard to challenge	Referral decisions easy to challenge
Committees almost always consider legislation first	Committee consideration easily bypassed
Rules Committee powerful; controls time of debate, admissibility of amendments	Rules Committee weak; few limits on debate amendments
Debate usually limited to one hour	Unlimited debate unless shortened by unanimous consent or by invoking cloture
Non-germane amendments may not be introduced from floor	Non-germane amendments may be introduced (riders)

The Congressional Budget and Impoundment Control Act of 1974

- A United States federal law that governs the role of the Congress in the United States budget process
- **The President's Budget**
- **Budget Resolution**

President's Budget

- Process begins in February with the submission of the President's budget
- Submitted to the Congress on the first Monday in February
- At this stage, the budget is not binding
- The administration's intended spending for the following fiscal year
- Includes volumes of supporting information intended to persuade Congress
- Funding requests for all federal independent agencies and cabinet departments are included
- Each agency and department provides additional detail and supporting documentation to Congress on its own funding requests

Budget Resolution

- Drafted concurrently by the House and the Senate budget committees
- By early April both committees finalize their drafts and submit it to the respective floors for consideration and adoption.
- Once both houses pass the resolution, a conference report is drafted by members of the Senate and the House
- In contrast to most legislation passed by Congress, the budget resolution is a concurrent resolution and thus does not become law and does not require the signature of the President.
- As a result, no money has actually been appropriated at that point
- The budget resolution serves as a blueprint for the actual appropriation process
- The fiscal year begins on October 1st

Discretionary vs. mandatory spending

- **Discretionary** spending requires an annual appropriation bill
- All discretionary spending is determined by the House and Senate Appropriations Committees and their various sub-committees.
- Typically for a fixed period (usually a year), it is said to be under the *discretion* of the Congress. Some appropriations last for more than one year

- **Mandatory** spending refers to spending enacted by law, but not dependent on an annual or periodic appropriation bill.
- Commonly, "mandatory" programs refer to certain entitlement programs that do not require annual appropriations. Social Security benefits, Medicare, and Medicaid
- The cost of spending for these benefits is estimated every year, but is not subject to periodic congressional approval.
- Congress may change mandatory programs or spending through subsequent legislation

Structure of the budget

- Fundamentally, the budget resolution is structured along 20 budget *functions*, which are simply categories of spending.
- Largest line items
 - National Defense
 - Health
 - Medicare
 - Social Security

Helpful on-line Resources

- <http://thomas.loc.gov>
- www.congresslink.org
- <http://capitoladvantage.com>
- <http://www.opensecrets.org>
- <http://www.whitehouse.gov/>
- www.vote-smart.org
- <http://bensguide.gpo.gov/>
- cpolley@fmi.org