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Water Resources Policy, Public Finance & Advocacy

How Congress Works

*A Handbook on Congressional Organization
& the Legislative Process*

By

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FOREWORD

More than two centuries ago, the United States Constitution created a revolutionary form of popular government. Although the world has gone through significant changes since this document was originally crafted, the fundamental structure and principles of that form of government have not been altered. One of the most striking aspects of the American system of government is that it divides power among a central government having authority over the nation, and various state and local governments with authority over limited geographic portions of the nation. This “federal” system of government also provides that the national government shall consist of three separate and distinct branches: legislative, executive, and judicial.

How Congress Works provides a general overview of Congress -- the legislative branch of government -- and explains how it makes policy decisions. The purpose of this handbook is to enhance your basic knowledge of the legislative process. Armed with this understanding, you will be better able to follow the progress of an issue from the time it surfaces as a gleam in the eye of a legislator, to the day it is introduced as legislation, and to the day it becomes (or fails to become) a law.

However, no single publication can possibly expose readers to the highly dynamic intricacies of the American legislative process. Only on-the-job training will give you a taste of those intricacies. Some may use the information in this manual to stay abreast of legislative developments. Others will use it to influence those developments more effectively. Hopefully, all will find that *How Congress Works* demystifies the legislative process.

A handwritten signature in black ink that reads "Howard Marlowe". The signature is written in a cursive style with a long horizontal flourish at the end.

HHoward Marlowe

INTRODUCTION

Every year, Congress deals with an extremely wide variety of issues, many of which are quite complex. Despite the increasing numbers of congressional staff with specialized academic or professional backgrounds, most Members and their aides do not have adequate knowledge of your industry, your profession, your job, your community, or your issue. Each Member of Congress needs to balance the role of reflecting the interests he or she represents with the equally important need to develop public policy that is in the national interest. Without ample contact from a variety of public sources, there is little chance that this delicate equilibrium will be achieved successfully.

From the basic standpoint of promoting the establishment of sound public policy, it makes sense for you to understand how Congress operates and how to use your knowledge to improve the policies Congress makes that affect your interests. However, while knowledge is certainly a large part of the equation, having a team of professionals to support your organization's efforts is equally important. If you are considering professional assistance, contact **Marlowe & Company** so we may lend you our support.

It is surprising how few of us actually try to influence Congress. Even more alarming is the lack of knowledge people have about how Congress works. Many of us belong to organizations or associations that are actively working to influence Congress. Although these groups can be effective in representing the interests of their members, they cannot succeed without your involvement. You are the constituent with a vote; the person who knows how a particular issue affects a Member's specific district or state; the one with the hands-on knowledge of what an issue means when it is translated into the language of day-to-day reality.

Working with Congress is vital to your interests! That's why it makes sense for you to understand *How Congress Works* and then put your awareness to work by reading the companion guidebook, *How to Talk so Congress Listens*. After having read these publications, any interested persons who want to affect policy in Washington should contact [Warwick Group Consultants](#) so we may help you devise the proper plan of action for your particular issue.

CONGRESSIONAL ORGANIZATION

IN BRIEF: *Congress is organized into two chambers.* The House of Representatives has 435 voting members divided among the 50 states, plus non-voting representatives of the District of Columbia, Puerto Rico, Guam, American Samoa and the U.S. Virgin Islands. The official title of members of the House is “Member of Congress.” However, they are more commonly called “Representative” or “Congressman/Congresswoman.” The Senate has 100 voting members (two from each state), each of whom is called a “Senator.” The House and Senate are equal in power, if not in prestige. The chief officer of the House is called the “Speaker.” The most important officer of the Senate is the “Majority Leader.” By virtue of their positions, each of these people is the most important person of the political party which controls their particular chamber. Each is in charge of a leadership structure which is designed to promote the policy objectives of their party and the efficient working of Congress and its committees.

A. Membership of the House

As presently constituted, the [House of Representatives](#) is made up of 435 voting members who are elected every two years by popular vote. Following every national census (which occurs once every 10 years), each state is apportioned a share of House seats which represents its share of the national population. The Constitution, however, assures that each state is entitled to at least one Representative. In addition to the voting members, there are four non-voting Delegates, one each from the [District of Columbia](#), the [Virgin Islands](#), [Guam](#), and [American Samoa](#), as well as one non-voting Resident Commissioner from Puerto Rico. Although the Delegates and Resident Commissioner cannot vote on the House floor, they can vote in the committees on which they serve.

B. Membership of the Senate

The [Senate](#) is currently composed of 100 members (two from each of the fifty states) each of whom has one vote. Senators are elected by popular vote for six-year terms. These elections are arranged so that approximately one-third of Senate seats are up for election every two years and that the terms of both Senators from a state do not expire in the same year.

C. Eligibility Requirements

A member of the [House](#) must be at least 25 years of age on the date of his or her election, must be a U.S. citizen for at least seven years, and must reside in the state he or she represents. A member of the [Senate](#) must be at least 30 years of age on the date he or she is elected, must be a U.S. citizen for at least nine years, and must be a resident of the state he or she represents.

D. Terms and Sessions of Congress

Each two-year period which begins at noon on January 3rd of odd-numbered years is usually referred to as a “Congress.” Congresses are numbered sequentially, the first having been assembled in 1789. Thus, the term of the 111th Congress began at noon on January 3, 2005, and will expire at noon on January 3, 2007.

Each Congress consists of two “sessions.” The first session begins in January of the odd-numbered year; the second session begins in January of the even-numbered year. (The Constitution also provides procedures for calling “Special Sessions” of Congress under unusual circumstances.)

E. Leadership Structure

Both the [House](#) and the [Senate](#) have a leadership structure that is essential to the operation of the legislative process. While the structures of the two bodies have similarities, it is the differences which are most important.



-House of Representatives-

1. Speaker of the House

The preeminent leader of the House is the Speaker, who is chosen by a majority vote of the full House. (It is a little-known fact that the Speaker need not be a member of the House, but every speaker chosen has been an elected representative.) Despite having the right to vote, the Speaker usually does not participate in debate and rarely votes on the floor. In addition, the Speaker is second in the United States presidential line of succession, after the Vice President and before the President pro tempore of the U.S. Senate. The Speaker has both formal and informal powers which make this position the most influential of all House leadership posts:

Presiding Officer: The Speaker is the presiding officer of the House. As such, he or she rules on points of order, recognizes Members who wish to speak, and in general exercises significant influence over the scheduling of legislation and the course of floor debate.

House Rules Committee: Traditionally, the Speaker has significant influence over the House Rules Committee. This powerful committee acts as a “traffic cop.” It determines which bills that have been reported out of other committees will actually come to the House floor for a vote and specifies the rules for debate on those bills.

Committee Appointments: The Speaker also appoints members of the House to House/Senate conference committees, chairs the majority party committee (which assigns members of that party to committees), and nominates committee chairmen (who then must be approved by a caucus of that party’s members).

Bill Referral: The Speaker also has the formal responsibility of referring bills to the appropriate committee(s). In practice, this is done on his behalf by the House Parliamentarian. The subject matter of legislation is the major determinant of the committee(s) to which the bill is referred. Rules adopted by the House determine the subject matter jurisdiction of each committee. Precedent, custom, and law may also be factors in the committee referral decision. However, on occasion the committee to which legislation is referred can determine the fate of that bill. The members of one committee may be more disposed to approve legislation than the members of another.

2. House Majority (and Minority) Leader

The **House Majority Leader** is the majority party's chief legislative advocate and spokesperson. By custom, the Majority Leader develops and coordinates the party's legislative program in cooperation with the Speaker and other party leaders, and is instrumental in establishing and achieving the party's legislative agenda.

(The counterpart position for the minority party is called the **House Minority Leader**.)

3. House Majority (and Minority) Whip

The **House Majority Whip**, together with Deputy and Assistant Whips, is responsible for rounding up votes in support of legislation endorsed by the majority leadership. When a close vote is expected, the whips put together "head counts" (or "whip counts") listing how members are likely to vote. These lists are used by the party leadership to influence members who may be undecided.

(The counterpart position for the minority party is called the **House Minority Whip**.)

4. House Party Caucuses

Each party also has a caucus to which all of the Representatives of that party belong. (The Republicans call their caucus a conference.) The party caucuses formulate party rules and floor strategy, elect party leaders, approve committee assignments, and -- on occasion -- adopt party positions on legislation.



Each of the parties has its own process, rules, and precedents for assigning committee memberships.



-The Senate-

1. President of the Senate

The two top Senate leadership positions are largely ceremonial. The Vice President of the United States serves as [President of the Senate](#). In this capacity, he may preside over the Senate and does have the important power to break a tie vote. Vice presidents have cast 242 tie-breaking votes. Vice presidents usually only preside to swear in new senators, during joint sessions, and when casting a tie-breaking vote.

2. President Pro Tempore

The President Pro Tempore is elected by members of the Senate to act as the Senate's presiding officer in the absence of the Vice President. This official is usually the most senior member of the majority party. In practice, the Majority Leader, acting on authority from the President Pro Tempore, selects Senators who serve temporarily as Presiding Officers during different portions of the day when the Senate is in session.

3. Senate Majority (and Minority) Leader

The preeminent leader of the Senate is the [Majority Leader](#), who is elected by the members of the majority party. In contrast to the Speaker of the House, the Senate Majority Leader relies more on persuasion than on formal powers to accomplish his leadership responsibilities. This is due to the fact that Senate operations are based on the principal of

unlimited debate. To assure that this principle does not mire the Senate in inaction, the Majority Leader must secure agreements among Senators from both parties to schedule legislation and place reasonable limits on debate. (The Senate has no counterpart to a committee with the “traffic cop” powers of the House Rules Committee.) Working with the Presiding Officer, the Majority Leader also has a significant role in determining which Senators are recognized to speak and what parliamentary strategy will be used during floor debate.

The [Minority Leader](#) is chosen by the members of his party and acts to assure that the interests of his party and its members in the Senate are taken into account in the scheduling of legislation and floor debate. If the President of the U.S. and the Minority Leader are members of the same party, the Minority Leader acts as Senate spokesman for the President.

4. Senate Majority (and Minority) Whip

The **Majority Whip** is elected by a vote of the majority party Senators. Like his House counterparts, he has “head counting” responsibilities when important votes are pending. The **Minority Whip** is chosen by the members of his party and has the same functions as his majority counterpart.

5. Senate Party Conferences



In the Senate the party caucuses (or organizations of all members of each of the respective parties) are called conferences Democratic Conference/Republican Conference). Like their House counterparts, these party conferences adopt positions on legislation, formulate party rules and floor strategy, elect party leaders, and approve committee assignments.

As in the House, the respective parties in the Senate also have party committees who work with the party leadership and deal with party business. Both parties have a **Policy Committee** to formulate and coordinate policy on major issues. In addition, the **Senate Republican Committee on Committees** and the **Senate Democratic Steering Committee** make committee assignments, subject to conference approval.

These House and Senate officials comprise the leadership of Congress and are responsible for making the legislative process work in the interests of their respective parties.

Every two years, at the beginning of a new term, Congress reorganizes itself and chooses its leaders. Often, it uses this opportunity to make changes (usually minor) in Senate and House rules of procedure. On occasion, it also changes the number of committees and subcommittees or their jurisdiction, as well as rules regarding which or how many Members are eligible for membership on subcommittees or committees. Once this process is accomplished, it is ready to begin the formal consideration of legislative proposals.

F. Committee Structure

Each chamber establishes its own committee structure (House/Senate) and the jurisdiction of its committees. Both the House and Senate have Appropriations Committees (House/Senate) whose sole responsibility is to appropriate public funds. Both the House and Senate also have Budget Committees (House/Senate) which establish an overall target for both revenues and expenditures; and authorizing committees which establish the authority for the various federal agencies and programs.



Members of the various committees are assigned in a three-step process. First, Members request assignments to the committees they prefer. The incumbent Members usually keep the committee assignments they have because they have expertise and seniority. Second, each political party uses a committee in charge of committee assignments to recommend assignments. This committee on committees matches the Member requests with available committee seats, prepares and approves an assignment slate for each committee, and submits all slates to the full party for approval. The full party meets to approve the recommendations. Finally, each committee submits its slate to the full Chamber for approval. When a committee member resigns or is assigned to another committee, all of Congress is notified.



Committees establish their **subcommittees** and adopt procedural rules governing such issues as meeting times, quorum requirements, proxy voting (voting by absent members), etc. Chamber and party rules prescribe the maximum number of committees and subcommittees on which a member may serve or be chairman. In each chamber, it is the custom to give the minority party representation of every committee in rough proportion to its total membership in the chamber as a whole. The same ratio may be used to make subcommittee assignments.

Within each committee, the **chairman** is the dominant figure. However, congressional reforms in the 1970's diffused some of their formerly unlimited powers. Now, in many committees, the **subcommittee chairmen** exercise significant authority. These reforms also resulted in the creation of many new subcommittees and a more active role in the legislative process for junior members of Congress.

Currently in the House, the chairmen of subcommittees are elected by a vote of all majority party members of the full committee. In fact, the majority party members of the committee also have the power to decide on the number of subcommittees and what their jurisdictions will be. Each of these powers was formerly exercised solely by the committee chairman.

In the Senate, subcommittee chairmen are selected by a less formal process involving discussions between the full committee chairman and the majority party members of the committee. Here, too, there has been a noticeable effort to provide junior members -- even newly-elected Senators -- with subcommittee chairmanships so they have a greater role in the legislative process.

With the establishment of new subcommittees came more subcommittee staffers who are often appointed by the subcommittee chairman or members of the subcommittee. Prior to the reforms, subcommittee staffs were usually appointed by the full committee chairman.

As a result of the reforms of the 1970's, some subcommittee chairmen exercise a significant degree of control over the legislation referred to them. It is possible, for example, for a recalcitrant subcommittee chairman to refuse to act on legislation favored by the full committee chairman. In such cases, there is a significant chance that the bill will die.

THE LEGISLATIVE FUNCTION

IN BRIEF: *The legislative process begins when legislation is introduced by a Member of Congress* (which in this handbook means either a Representative or a Senator). Proposed legislation is referred to as a bill and is given a number upon introduction. Bills introduced in the House are designated “H.R. xxxx,” while bills introduced in the Senate are designated “S. xxxx.” The ideas for legislation originate with Members of Congress, the President and his administration, as well as individual constituents and interest groups. When it is introduced, legislation can be the product of considerable thought and legislative draftsmanship, or it can be hastily drafted and introduced by a Member as a hand-written document on a scrap of paper. What is important is that it be introduced in some form so that the ideas it contains may have the opportunity to ignite the legislative apparatus of Congress.

The power to legislate is the power to make laws that establish policies and programs, as well as appropriate funds and levy taxes. Thus, lawmaking is a vital part of the public policy process. For example, when Congress passed the Social Security Act, it decided that a national program to provide for the aged and disabled should be established. Similarly, when Congress voted to reduce taxes on corporations and individuals and to eliminate many tax deductions and credits, it decided that this would create a more equitable method of raising Federal revenues. Every law passed by Congress -- and every proposal Congress decides not to enact -- represents a policy decision.



Article I, Section 1 of the [Constitution](#) vests all legislative powers in a Congress composed of a Senate and a House of Representatives. The Constitution does not give either one of these bodies greater authority over the other in making legislative policy. Both must agree on a legislative proposal before it can be sent to the President for his signature.

A primary difference in the legislative functions of the House and Senate is the Constitutional restriction that all revenue bills must originate in the House. In practice, this restriction has been circumvented when the Senate has taken a House passed revenue-related bill and added to it a new revenue-raising provision before sending the amended bill back to the House for further action.

-Types of Legislation-

Bills are a type of legislation which, when passed by both the House and the Senate and approved by the [President](#) (or if passed over the President's veto by a two-thirds of both houses) becomes law.

Private Bills - Private bills are related to individual grievances against the federal government which, under law cannot be recovered in a court. An individual may ask his or her member to introduce a private bill as a remedy to his or her problem, although the introduction of private bills is now rare.

Public Bills - All other items of legislation are called public bills because they affect a national or otherwise significant interest. In the House, public bills are designated by an "H.R." followed by a number (i.e., H.R. 5890). In the Senate, the designation is "S." followed by a number (i.e., S.2572). The first bill introduced in a Congress is given the number "1," and all other bills during that Congress are numbered sequentially thereafter.

Resolutions - The other major type of legislation that can be introduced in the House or the Senate is a resolution. There are three types of resolutions. (See below)

Joint Resolutions

The one most like a bill is called a joint resolution. Designated as "H.J. Res." or "S.J. Res.," followed by a number, this type of resolution requires passage by both the House and Senate and approval by the President before it is enacted. As such, it does not differ from a bill and is occasionally used to make special appropriations of government money. In addition, joint resolutions are used to propose amendments to the Constitution. A proposed constitutional amendment must be approved by two-thirds of the members of the House and Senate and is not sent to the President for approval. Rather, it is sent to the states for ratification.

Concurrent Resolutions

A concurrent resolution ("H.Con. Res" or "S.Con.Res." followed by a number) is used to express the sentiment of Congress on a particular issue. It must be passed by both the House and Senate, but is not sent to the President for approval and does not have the force of law. However, this form of resolution is used to bind Congress to budget limitations under the Congressional Budget Act of 1974.

Simple Resolutions

A simple resolution ("H.Res." or "S.Res." followed by a number) is used to express the sentiment of one house of Congress. This vehicle is used to adopt House or Senate procedural rules, or to express sentiments of congratulations, condolences, etc. In the House, simple resolutions are also used to adopt the debate limitations on a particular bill that have been proposed by the House Rules Committee.

Amendments - Amendments are proposed changes or additions to the bill or resolution which are generally offered during committee consideration or floor debate. When an amendment is proposed to a bill scheduled for floor debate, it is given a number (with the first amendment offered during a Congress designated as House or Senate “Amendment No. 1” and all subsequent amendments numbered sequentially thereafter).

-Origins of Legislation-

While all legislation must be introduced by Members of Congress, the ideas for many items of legislation often originate with others. The degree to which a Member will originate his or her own legislative ideas depends on the Member and on circumstance. Oftentimes, a Senator or a Representative will get an idea for a legislative proposal while reading a newspaper, watching television, or talking with a constituent. Many legislative ideas come from congressional staff, while others are based on proposals introduced by other Members of Congress. When two bills are identical or similar (whether or not both are introduced in the same house), they are called **companion bills**.



There are occasions when a committee or subcommittee will hold hearing on one or more legislative proposals or hold “oversight” hearings on a subject, and then formulate a bill of its own. These bills are usually introduced by the committee or subcommittee chairman. Listen to Congressional hearings via C-SPAN at <http://www.c-span.org/> or via the committee’s website.)

A great deal of legislation also originates in the executive branch of government where the White House or the various agencies or departments draft legislation implementing the administration’s programs and objectives. The recommendations made by the President in his annual State of the Union and budget messages, for example, are often introduced by Senators and Representatives who are members of the President’s party. When this is done, the legislation is said to be **introduced by request**.

Interest groups and individual constituents are a major source of legislative ideas. These outside sources use personal contacts with members, letters, or position papers to offer their recommendations. Sometimes, they actually draft the legislation and then find one or more Members of Congress to introduce it.

The President or other high administration official may also be the source of a legislative proposal. While the President cannot introduce legislation, he can send an **Executive Communication** to the Speaker of the House and the President of the Senate transmitting a draft of a legislative proposal. These recommendations are referred to the appropriate committee. Even if the Committee Chairman is of a different party than the President, precedent dictates that he or she will often introduce the President's proposal as legislation. When this is done, the legislation is said to be **introduced by request** and that phrase will appear next to the Chairman or other sponsor's name on the bill. On some occasions, the President's communications are referred to a committee to determine if legislation should be introduced. In the case of the President's annual [Budget Recommendations](#), the House and Senate Appropriations Committees will each draft several appropriations bills under guidance and rules set by the leadership of the respective chambers and the House and Senate Budget Committees. If a Member of Congress needs help in drafting legislation, he or she can go to the House or Senate Office of Legislative Counsel. Personal congressional staff also can provide drafting help.

-Congress' Non-Legislative Functions-

Both the House and Senate have certain functions which do not involve the enactment of legislation. The Senate alone must consent to treaties and approve certain presidential nominations. In the case of impeachments of the President or a Federal judge, the House must approve the charges while the Senate sits as a court to try the impeachment (with representatives of the House acting as prosecutors). If no candidate for President receives a majority of the total electoral votes, the House must choose the President from among the three candidates having the largest number of electoral votes. In addition, each Member of Congress acts as an agent for the people he or she represents. This constituent representation function is a significant responsibility of every Representative and Senator.



As a proposal moves along the legislative path, there are several sectors, or “zones,” through which it must pass. The success with which it progresses through these zones determines whether the proposal eventually becomes law. The following chapters of this handbook examine each of these zones.

THE ZONES OF INFLUENCE

IN BRIEF:

In Zone One, legislation is introduced by a Member of Congress and referred to the appropriate Congressional committee. Most legislation is not acted upon by the committee and essentially dies at this stage.

In Zone Two, the committee holds a hearing on those bills that do not vanish into legislative obscurity. Hearings are open to the public and usually include both public sector witnesses as well as witnesses from a department or agency of the Executive Branch of the federal government. The committee may then choose to “markup,” or change the legislation and then approving it. For most legislation, this progress on the legislative path can begin in either the House or the Senate. For the sake of explanation, this handbook assumes the legislation begins to move in the House.

Once a bill is approved by committee, it moves to Zone Three, where it is debated and voted on by the full House.

If approved, it is sent to the Senate in Zone Four, where it must be approved by committee and passed by the full Senate.

Any differences between the House and Senate versions of the legislation are resolved in Zone Five, where a conference committee reports a final version of the legislation to the House and Senate.

This “conference report” version of the legislation must be approved by the House and Senate in Zone Six, and then sent to Zone Seven for approval or veto by the President. If approved, the legislation becomes law.

ZONE ONE: **-INTRODUCING LEGISLATION-**

Legislation may be introduced in either the House or Senate. For purposes of this handbook, however, it is assumed that legislation is first introduced in the House.

Once legislation has been drafted, it is ready to be introduced. Any Member as well as the Resident Commissioner from Puerto Rico and the various delegates from U.S. territories may introduce legislation. In the House, this is done simply by placing the proposed legislation in the “hopper” provided for that purpose at the House Clerk’s desk. Printed forms are normally used for this purpose, but they need not be used. The Member introducing the legislative proposal need not make a statement on the House floor when this is done. However, they may request permission of the House to place a statement in the section of the [Congressional Record](#) called “Extension of Remarks.”

Senators submit their proposals and any accompanying introductory statements to the Senate Clerk, or they may introduce the proposal from the Senate floor. Any introductory statements accompanying the legislation or made on the Senate floor are included in the main section of the [Congressional Record](#).

-Committee Referral Classification-

Single Referral

Upon introduction, the House and Senate Parliamentarians, acting on behalf of the Speaker of the House and the Presiding Officer of the Senate, refer the legislation to the appropriate committee which has jurisdiction over the proposal. This is called a single referral.

Joint or Multiple Referral

If the subject matter of legislation cuts across the jurisdictions of two or committees, the bill may be referred to more than one committee. This is called a joint or multiple referral.

Sequential Referral

If it is referred first to one committee (which sometimes is required to act within a specified time period) and then to one or more other committees (which get jurisdiction only after the first committee has acted), it is called a sequential referral.

Split Referral

Legislation may also be referred to two or more committees at once, with each committee having jurisdiction over only a portion of the bill. This is called a split referral.

In the case of joint or sequential referrals, the committees to which the bill has been referred may take differing action with respect to the proposal. For example, one committee may approve (or **report out**) the bill while another may disapprove it. For this reason, legislation subject to multiple referrals often have a more difficult time making their way through the legislative process.

ZONE TWO:
-COMMITTEE ACTION-



Our hypothetical House legislation (let's call it H.R. 10) has been introduced by a member and referred to a single committee. If it is like most legislation, it will never get any further along the legislative path.

Committees exist to choose which legislation will get a chance to become law and to refine those items into measures that (a) are drafted to accomplish their intended purpose, and (b) can garner enough support to be approved by the committee membership. Time constraints and political concerns mean that committees will consider only a small fraction of the bills referred to them. Those which are not considered die in committee. On rare occasions, however, the House or Senate can vote to **discharge** legislation from further consideration by the committee and have it placed on the floor calendar. In the House, a majority of all Representatives (i.e., 218) must sign a **discharge petition**, which then must be approved by a vote of the full House. No petition is required in the Senate. Instead, a Senator may make a motion to discharge, subject to approval by the full Senate. Unless requested by the committee, the discharge procedure amounts to a rebuke of the committee, its chairman, and/or the chamber leadership and is seldom successfully employed.

Several factors influence the fate of legislation once it has been referred to a committee. For instance, the prospects for further action are greater if the legislation is one whose sponsor is the chairman or a member of the committee and if it is cosponsored by several committee members. Legislation introduced by request of the administration also has a better chance of committee action, especially if the committee chairman is of the same party as the President.

-Subcommittee Consideration-

The first step in the process of committee action usually is for the legislation to be referred by the committee chairman to the subcommittee with jurisdiction over its subject matter. If this referral is not made, only the full committee can act on the legislation.

A. Subcommittee Hearings

If the subcommittee intends to act on legislation referred to it, it will schedule a public hearing (listen to Congressional hearings via C-SPAN at <http://www.c-span.org/>) on the measure at which witnesses offer testimony in support or opposition to the item. Witnesses often include members of Congress, administration officials, or members of the public. In general, subcommittees publish notices of upcoming hearings and offer interested people an opportunity to request to testify. These notices can be obtained from the subcommittee's webpage, via mail or email from the subcommittee, or by reading the [Congressional Record](#) (the text of which is also available on the Internet). There are also commercial periodicals and on-line computer databases that provide information about upcoming hearings. Many times, however, the first to obtain knowledge of upcoming hearings are professional lobbyists who maintain close contacts with the committee staffers who set hearing dates.

For appropriations bills, opportunities for public testimony are usually limited to **public days**. Primarily, appropriations subcommittees are interested in hearing testimony from executive branch officials and members of Congress only. Similarly, the two budget committees often limit their hearings to "expert" public witnesses as well as officials of the Congressional Budget Office and executive branch officials.



Subcommittee rules often require that those given an opportunity to testify submit in advance copies of their **prepared statements**. These are made a part of the hearing record when the witness appears. However, at the hearing, witnesses are usually requested to make brief oral presentations and then answer questions posed by those members of the sub-committee who are present. The rules for the format, number of copies of prepared statements, and the length of oral statements vary by committee (and, sometimes, by subcommittee). To a significant extent, subcommittees request that testimony be submitted in both electronic and hard copy formats. Others who do not testify are usually given an opportunity to submit written statements for the hearing record.

Some subcommittee hearings are not focused on a particular piece of legislation. Instead, they may seek testimony on an issue or on the effectiveness of a government program. These are called **oversight hearings**.

Aside from taking testimony on legislation, issue or program, hearings may have other purposes. Some may be structured to assure that testimony offered is primarily supportive or critical. Others may be held to delay the legislation. For example, a subcommittee chairman who opposes the legislation may say that several days of hearings are required. In the alternative, he or she may offer an alternative proposal that eliminates objectionable parts of the original proposal. In these and other ways, the chairman may be able to delay or bottle-up the legislation long enough to prevent it from moving to the full committee for further action.

B. Subcommittee Mark-ups

When hearings are completed, the subcommittee can move to **mark-up** the legislation. Open to the public, these **mark-up sessions** allow subcommittee members an opportunity to offer their views on the bill. No opportunity exists for members of the public to express their views at mark-up sessions, although occasionally representatives of the administration are asked to comment. The subcommittee can approve the legislation as it was introduced or it can alter it by adopting amendments. (It is this process of changing the bill on a line-by-line or a section-by-section basis, which gives rise to the term mark-up.)



Changes to the legislation must be approved by a voice or roll call vote of subcommittee members. Those who oppose the legislation may choose to vote against reporting it out of subcommittee, or they may offer weakening amendments. On occasion, opponents may try to prevent the subcommittee from obtaining a quorum to mark-up or report out the legislation. In the Senate, subcommittee members may also try to “**filibuster**” legislation in mark-up by continuing to speak so that a vote cannot be taken.

C. Subcommittee Reporting

When a subcommittee has completed all changes it wishes to make to the legislation, it takes a final recorded vote on it. If a majority approves, the legislation is considered as having been **ordered to be reported out** to the full committee. This is followed by the actual **reporting out** of the legislation, which takes place when a version of the bill as changed is prepared. In some cases, the legislation is accompanied by a subcommittee report which contains an explanation of the measure, the reasons the subcommittee approved it, and any dissenting or additional views of

subcommittee members. If a majority disapproves of the legislation, the legislation usually dies, and no report is issued. In the alternative, the same result can be obtained by voting to table a bill.

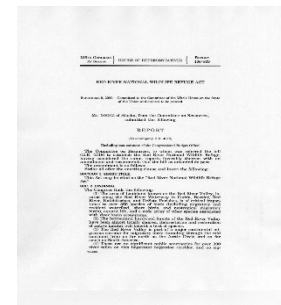
The legislation as reported out usually bears the same number given it when it was introduced. However, the printed version of the revised bill notes the fact that it has been reported out of subcommittee and indicates the changes that have been made in the original text. This version of the legislation is often referred to as a **subcommittee print**.

On occasion, the subcommittee makes so many changes in the original text that it chooses to report out an entirely new bill bearing a different number. This is called a clean bill and usually bears the subcommittee chairman's name as its sponsor.

-Committee Consideration-

Legislation reported out of subcommittee next goes to the full committee for consideration. The fact that legislation has been reported out of subcommittee does not guarantee full committee consideration. That decision is made by the chairman of the full committee. At this level, more hearings (listen to Congressional hearings via committee webcast or C-SPAN at <http://www.c-span.org/>) may be held or (most often) the committee may proceed to mark-up the legislation. The same considerations regarding subcommittee hearings and mark-up sessions prevail at the full committee level.

If the full committee approves the legislation, the bill is said to be ordered to be reported out. The committee staff is directed to prepare a draft of the legislation containing whatever changes were made by the full committee together with a written committee report explaining the full committee's action. This report also explains how the legislation changes existing law and what its expected cost will be. The report may also contain dissenting or additional views of committee members. When the report is actually adopted by the committee, the bill is said to have been reported out.



Committee reports are made available to the public online at the Library of Congress' www.congress.gov. They serve to explain the legislation to Members of Congress and the public. They also form a key part of the measure's legislative history. When printed, they are filed and given a report number (as in "H.Rpt. 110" or "S.Rpt. 205). Committee report numbers bear no relationship to the number of the legislation. Instead, the first committee report of a Congress is given the number "1," and all reports from the various committees are numbered sequentially thereafter. The version of the legislation reported out of committee is known as the **committee print**. It may bear the same number as the legislation that was introduced, or it may be **clean legislation** with a new number.

ZONE THREE:
-HOUSE FLOOR ACTION-



The House's legislative day begins with a prayer and a frequent motion to agree to the **Journal** (the official record of the previous legislative day's proceedings). Legislation reported out of committee is placed on a legislative calendar. Legislation reported out of House committees can be referred to one of four calendars:

Union Calendar

Revenue-raising (tax) and appropriations bills as well as many other bills are placed on the Union Calendar.

House Calendar

Any other public bill can be placed on the House Calendar.

Suspension Calendar

Legislation considered to be non-controversial is placed on the Suspension Calendar and can be called up on the first and third Mondays of each month (although this type of legislation is often considered more frequently by suspending the rules under the consent of the full House). Any bill on the Consent Calendar requires a two-thirds vote to pass. It cannot be amended on the floor. If the legislation does not garner a two-thirds vote it can still be brought up for floor action via the House or Union Calendars.

Private Calendar

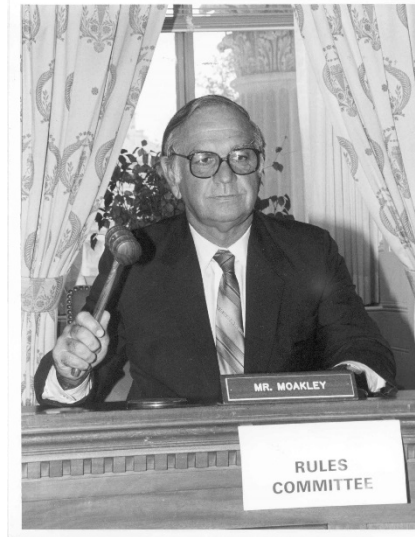
A feature exclusive to the House of Representatives is the Private Calendar, which contains all private bills. The Private Calendar must be called on the first Tuesday of each month (but may also be called on the third Tuesday at the Speaker's discretion).

Discharge Calendar

In addition to these legislative calendars, there is also a Discharge Calendar containing all petitions to discharge a committee from consideration of legislation. Only those petitions which contain signatures of half the members of the House (i.e., 218) can be placed on this calendar. On the second and fourth Mondays of each month (except for the last six days of a legislative session), a Representative who has signed a petition on this calendar may move that the committee be discharged from consideration of the legislation. Floor debate on this motion is limited to 20 minutes, divided equally between proponents and opponents. If a majority of the members voting supports the motion, the House can proceed to immediate consideration of the legislation.

-Role of the House Rules Committee-

The [House Rules Committee](#) reports **rules** that govern how legislation will be considered on the House floor. These rules may establish time limits for debate, determine which amendments will be in order during the legislation's consideration, waive parliamentary points of order, etc.



The chairman of the committee which has reported out legislation makes a formal written request of the Rules Committee to issue a rule for that legislation. [Note, however, that no rule is required for bills reported out of the Appropriations or Budget committees, nor do conference reports, votes to override a presidential veto, or certain measures related to House procedural rules and internal administration require a rule because they are considered to be privileged measures.]

The Rules Committee holds a hearing on the committee chairman's request at which only Members of Congress may appear in support of or opposition to the request. The Rules Committee then votes on the question of whether it will report a rule for the legislation and what the substance of the rule will be.

If it decides not to report a rule, the legislation is not likely to have a chance of coming to the House floor for debate. Thus, the Rules Committee offers opponents of legislation an opportunity to kill the legislation that has been reported out of committee before it reaches the floor.

The contents of the rule itself are often as important as the question of whether or not a rule is reported. This is because the rule not only provides for immediate floor consideration of the legislation; it also determines which amendments may be considered during floor debate.

Open Rule - An open rule permits any amendments to be considered.

Modified Closed Rule - A modified closed rule permits only specified amendments to be offered.

Closed Rule - A closed rule prohibits any amendments from being offered. Opponents of the legislation - or those who feel it as reported needs to be changed -- often try to get a rule which permits them an opportunity to offer debilitating or modifying amendments.

The rule may also contain **time limits** for debating the legislation and any amendments. It may also designate the floor managers who control the debate for the supporters and opponents of the measure. Finally, procedural points of order which might, under House rules, be raised against consideration of the legislation may be waived by the rule.

Once the Rules Committee approves a rule, it must report the rule to the House within three legislative days. The House cannot vote on a rule until it “lies over” for another legislative day. This rule, which was created to allow for a day’s worth of thoughtful deliberation on the rule, can be bypassed, providing for same-day rulemaking, as long as two-thirds of present members vote to override the legislation’s “lay over.” Debate on the rule is limited to one hour, with a majority of those present and voting required for passage.

Opponents of the rule are offered a final opportunity to make a **motion to recommit** prior to voting on final passage of the rule. This motion can be offered for the purpose of (1) recommitting the rule to the Rules Committee, or (2) recommitting the rule to the Rules Committee with instructions to report out a rule which contains specified changes from the original rule. Approval of a simple motion to recommit usually means that the bill is dead. A recommitment with instructions, on the other hand, usually means that a majority of the House wants to vote on an amendment the original rule had excluded or wants the Rules Committee to make substantive changes in the legislation’s language before it brings the measure back to the floor. Thus, the motion to recommit offers a significant opportunity to kill or make major changes in legislation.

There are two procedures that can be used to get around the need for a rule. The one most commonly used is called a **suspension of the rules**. Used for less controversial bills, motions to suspend the rules are in order every Monday and Tuesday if a member who intends to make such a motion has informed the Speaker in advance. Debate on the motion to suspend is limited to 40 minutes, divided equally between opponents and proponents of the motion. No amendments are allowed unless they have been included in the motion to suspend the rules. A two-thirds vote of Representatives present and voting is required to pass legislation brought up under this procedure. If the legislation fails, it can be brought up at a later time under regular procedures.



The other procedure for circumventing the Rules Committee is **Calendar Wednesday**. Under this procedure, Wednesdays are set aside for the Speaker to call on each committee chairman in alphabetical order by committee. When called, the chairman may ask for immediate consideration of any bill on the House or Union calendar that has been reported out of his committee. Debate is limited to two hours and must be completed on the same legislative day it was begun. The Calendar Wednesday procedure has been rarely used and is routinely dispensed with by unanimous consent.

-Floor Consideration-

Once a rule is passed and legislation is ready to be considered, the House usually resolves itself into the **Committee of the Whole on the State of the Union** (known more simply as the Committee of the Whole). Composed of all the 435 Representatives, but not chaired by the Speaker, this procedure permits the House to conduct its business more efficiently. For example, the Committee of the Whole requires that only 100 members be present, rather than the usual 218. In addition, there are more stringent limitations on the time allotted for debate. All measures involving taxes or appropriations must first be considered by the Committee of the Whole. For all other bills, the rule determines whether this procedure will be required.

Once in the Committee of the Whole, general debate on the entire bill is conducted. The time allowed for debate is set forth in the rule. This time is equally divided between supporters and opponents of the measure, with the time being controlled by the majority and minority party floor managers.

When time for general debate on the legislation has expired, the Committee of the Whole considers amendments to the bill. The House Clerk begins to read the bill according to the order set by the rule (usually title-by-title, or section-by-section). Amendments to a title or section are debated when that title or section is read (usually a formality that is dispensed with by unanimous consent). Debate is limited by the **five-minute rule** with supporters and opponents of an amendment having a total of five minutes each. (In practice, however, this time limit is often extended.) Should the committee reporting out the legislation want to amend it; its amendments will be considered first. These are called **manager's amendments**.

The rules of the House prohibit amendments whose subject is different from the text of the legislation under consideration. This is called the **germaneness rule**. It applies to proceedings in the House, the Committee of the Whole, and to committees. The House Parliamentarian will rule on whether an amendment is germane. His or her rulings are often based on precedent.

If action has taken place in the Committee of the Whole, it is completed when consideration of the bill and amendments is over and the Committee of the Whole “rises.” The Speaker then assumes the chair and the full House acts on the bill and any amendments adopted in the Committee of the Whole. If action has taken place in the House without prior action by the Committee of the Whole, then debate is usually governed by the rule. In either instance, final passage of the bill requires a favorable vote by a majority of those present and voting.

During debate, a Member may object to continuing on the grounds that a **quorum** is not present. If it is determined that half the members of the House are not present, 15 Representatives are authorized to issue a **quorum call** to compel the attendance of absent Members. The absence of a quorum can lead to adjournment of the House for the day.

Votes are recorded by one of several methods once the debate on these votes ends.

Voice Vote

A voice vote occurs when the Chair asks for members to voice their “yeas and nays.” The Chair then rules whether the “yeas” or the “nays” have prevailed. A Representative may then make a point of order that a quorum of 100 members is not present.

Recorded Vote

If this point of order prevails, an automatic recorded vote must occur. A recorded vote may also be requested by a member if he or she is supported by 25 Representatives. Recorded votes are taken by members inserting a special card into an electronic device which records how they have voted on an amendment.

Division Vote

If the Chair is in doubt about the outcome of a voice vote, he or she may call for a division vote or a Representative may demand such a vote. Under this procedure, members voting for the amendment are asked to rise and are counted, then those opposed.

Yeas and Nays

In the House (but not the Committee of the Whole), one-fifth of the members may demand that the Clerk call the roll and determine whether a Member is for or against a bill (or amendment). This is usually done by electronic device. There are several devices attached to chairs throughout the Chamber. Members have a vote card which is inserted in a slot that has four indicators: “Yea”; “Nay”; “Present”; and “Open”. The latter simply indicates the system is ready to receive and record vote cards.

When voting on all amendments has been completed, the Committee on the Whole “rises” and reports back to the full House. The Speaker resumes the chair, and 218 members are required for

a quorum. Once back in the chair, the Speaker usually terminates all debate on the measure by announcing that “under the rule, the **previous question** is ordered.” This ends debate and requires a vote on the pending legislation.



Now, the House considers the actions taken in the Committee of the Whole. At the Speaker’s request, members identify any amendments on which they want the House to take separate recorded votes. These votes are then taken, followed by the voice vote adoption, en bloc, of any remaining noncontroversial amendments.

Following votes on amendments, House rules permit one **motion to recommit** the legislation back to the committee that reported it. If this motion is offered and fails, or if it is not offered, the Speaker calls for a final vote on passage of the legislation as amended. The same methods of voting used for amendments can be used for this vote, as well.

*[NOTE: On any recorded vote, Members can pair. A **live pair** occurs when a Member who is present withholds his vote and pairs himself with an absent Member who would have voted opposite had he be present. In this way, the absent member cancels the vote if the Member who is present. This procedure is used when the present Member wishes to have his position of the vote recorded, but not counted in the final vote tally (perhaps for political reasons). In the alternative, two absent Members may pair on opposite sides of the issue. This is simply a method of recording the positions of Members who are not present. However, it does not affect the vote tally. A Member who expects to be absent from the House for several days may also arrange a **general pair** with another absent Member. Neither of the Members in this pair announces how they would have voted on the issues that come before the House in their absence. They simply state that, had they been present, they would have been on opposite sides. In this way, they assure their colleagues and the public that their absence made no difference in the outcome of the votes they missed. Pairing is an old and informal custom used in the House and Senate that is regarded by some as arcane. However, it is a process still used by members in both chambers.]*

ZONE FOUR:
-THE LEGISLATION IS SENT TO THE SENATE-



Once H.R. 10, our hypothetical legislation has passed the House, a final copy of the legislation as adopted (including all amendments approved) is sent to the Senate. In parliamentary terms, the measure ceases to be called legislation and is now called an Act. An engrossed version of the legislation is signed by the Clerk of the House and is delivered to the Senate by a “reading clerk” while the Senate is in session. In one of the rare truly formal proceedings of Congress, the reading clerk (accompanied by an officer of the Senate) is recognized by the Presiding Officer of the Senate. The clerk bows and then states that the House has passed the legislation and requests the concurrence of the Senate.

The Presiding Officer (following the recommendation of the Senate Parliamentarian) then refers the legislation to the appropriate Senate committee, where it again goes through the same hearing and mark-up process described above. Any Senator can object to referring the legislation to committee, in which case it is placed on the Senate calendar. This tactic is occasionally used where proponents of the legislation fear the committee referral process may be too time-consuming or if they feel the measure is likely to be killed in committee.

A Senator may at any time move to discharge a committee from consideration of legislation. Contrary to the House, this motion does not have to be supported by a petition. If the motion receives a majority vote, the committee is discharged, and the bill is placed on the Senate calendar.



There is no functional Senate equivalent of the House Rules Committee. The basic principle in the Senate is one of **unlimited debate**. With limited exceptions, any Senator may speak without time limit on any subject once he is recognized. So that this principle does not result in a breakdown of Senate activity, most legislation -- especially those which are controversial -- are only brought up for floor debate if a **unanimous consent agreement** (or UC) has been reached between the majority and minority party leaders. These agreements are similar to the rules adopted for House floor debate and may govern the length of debate and which amendments may be offered. They differ from House rules in that one Senator can successfully prevent a unanimous consent agreement from being reached. Without a unanimous consent agreement, extra time must be set aside for legislation's consideration. In fact, many measures are never brought up for debate -- especially late in a legislative session -- if a unanimous consent agreement cannot be achieved.

Any legislation on the Senate calendar may be called up for debate upon a Senator's **motion to proceed** to consideration of the legislation. No time limits can be set on the debate of this motion. For controversial legislation, the critical vote is often on the motion to proceed and not the vote on the legislation itself. For example, a Senator opposing legislation may vote against the motion to proceed. However, if that motion passes, the same Senator may vote in favor of final passage of the legislation because he knows it is likely to pass and does not (for political reasons) want to be recorded as opposing passage of the legislation. In effect, this Senator can claim he voted for legislation that he actually tried to defeat.

-Senate Calendars-

There are only two calendars in the Senate. The **Calendar of Business** contains all legislation, while the **Executive Calendar** is reserved for treaties and nominations. Senate floor procedure is much less rigid than in the House. The general mode of operation is to dispense with the rules and operate by unanimous consent. The Senate's legislative day begins with a prayer and a reading of the Journal (the official record of the previous legislative day's proceedings). As with many Senate procedures and rules, reading of the Journal is usually dispensed with by unanimous consent.

Legislative days are concluded when the Senate adjourns.



If it is a new legislative day, the Senate next goes into a two-hour period called the **morning hour** (even if it occurs in the afternoon). At this time, **morning business** is conducted, including receiving communications from the President or from executive branch departments, messages from the House, petitions from any of the various States, and reports from the Senate's committees. Senators also introduce legislation during the morning business period. Legislative business is usually not conducted during this period. During the second half of this period, however, legislation can be considered if the Senate gives its unanimous consent to take up the bill without debate. More commonly, the Senate concludes morning business and then proceeds to consider legislation.

On days when the Senate is meeting following a recess (rather than adjournment), there is no morning hour. In these instances (which are frequent), the leadership requests unanimous consent for a period in which morning business can be conducted. When the Senate meets following a recess, the legislative day actually continues over a period of two or more calendar days.

Upon completion of morning business, the **Calendar is called**. This is a procedure for calling up noncontroversial legislation. The Senate usually dispenses with the call of the calendar by unanimous consent. The Majority Leader calls up legislation on which he wants the Senate to vote, regardless of their position on the calendar. In fact, any Senator who gains recognition from the Presiding Officer may call up legislation whether or not it is on the calendar.

Senate procedures make it harder to bottle-up legislation in committee than is the case in the House. They also give the leadership less control over what legislation may come to the floor. Balancing this looseness of procedure is the fact that any Senator opposed to legislation brought up in this manner can **filibuster** (or speak against the bill) for as long as he or she wishes. Thus, it is highly unlikely for any controversial legislation to be brought up unless the Senate has adopted a unanimous consent agreement or is prepared for what is politely referred to as "extended discussion" of legislation. The threat of a filibuster is never taken lightly.

At the very least, it inconveniences Senators by forcing late-night or (in now rare cases) round-the-clock sessions. At its worst, it can prevent the Senate from getting any other business accomplished.

-Floor Consideration-

When the Senate has completed its morning business and has disposed of any pending non-controversial legislation, it proceeds to take up other pending items. The first step in Senate floor consideration of legislation is a **motion to proceed** to consideration of the legislation. Unless there is a unanimous consent agreement to the contrary, there are no time limits on debating this motion. Thus, any Senator has an opportunity to filibuster the motion to proceed. If a filibuster takes place, 16 Senators can file a **cloture petition** to limit debate. Once filed, this petition must lay over for two calendar days. At that time, it must receive the votes of sixty Senators to be adopted. If this process of **invoking cloture** succeeds, the motion to proceed must come up for a final vote after no more than 36 hours of debate. However, there is no need to use a motion to proceed if there has already been a unanimous consent agreement that the bill be brought up for debate.

If the motion to proceed passes, the legislation is brought up for Senate consideration. Unless there is a unanimous consent agreement limiting debate, the legislation can be filibustered. This is so even if there was an unsuccessful effort to filibuster the motion to proceed. The prospect of two filibusters and the potential of two hundred hours of debate on a measure is enough to ensure that **most controversial legislation is brought up only under unanimous consent agreements.**

When the Senate proceeds to consideration of legislation, amendments can be offered. Unless the unanimous consent agreement provides otherwise, *there is no requirement that the amendments be germane to the legislation.* Thus, an amendment on housing can be offered to education legislation. The exception is appropriations bills for which amendments proposing *substantive* legislation are prohibited unless two-thirds of the Senate suspends this rule. (The rule, in effect, requires that appropriations bills contain only appropriations and not changes or additions to other laws.) Amendments need not be offered in any particular order, but Senate procedural rules govern such technical issues as limiting how many amendments may be offered to an amendment and how many times a section of legislation can be amended. Unless stated otherwise in the unanimous consent agreement, Senators are not required to give any advance notice of their intention to offer an amendment, nor does the amendment need to be printed before it is offered.

As in the House, debate on legislation and all amendments is controlled by two floor managers. The managers are usually the chairman of the committee which reported the legislation and the ranking minority party member of that committee.



Voting in the Senate is by one of two methods. Under a **voice vote**, the Presiding Officer calls for the “yeas and nays” and declares which side has prevailed. One-fifth of those Senators present can demand a **recorded vote**, which requires that a clerk read the name of each Senator and record his or her vote. There is no electronic voting in the Senate. In most cases, a simple majority of Senators present and voting is required for passage. In the Senate, a quorum consists of fifty-one Senators. Any Senator may **suggest the absence of a quorum**, whereupon a Senate clerk begins to read the roll of Senators’ names. (Often, such a **quorum call** is merely a delaying tactic used during Senate floor debate, rather than a vote, to buy time while a Senator comes to the floor to speak on an issue. When the Senator arrives, the Senator who requested the quorum call will ask unanimous consent to rescind the order for the quorum call).

If the quorum call is allowed to proceed to its conclusion and fifty-one Senators have not answered to their names, the Presiding Officer directs the Sergeant- At-Arms to request and, if necessary, compel the attendance of absent Senators. This is sometimes referred to as a live quorum call. Only when at least 51 Senators have appeared in the Chamber may the Senate continue its business (whether debate or voting).

Following final passage, any Senator who voted for the legislation or who abstained from voting is given an opportunity to offer a **motion to reconsider**. (If the measure is passed by voice vote, any Senator can make this motion.) Normally, this motion is followed by a motion to table the motion to reconsider. Passage of such a tabling motion assures that the legislation cannot be reconsidered by the Senate. However, if the tabling motion fails and the motion to reconsider is passed, the Senate reverses the action by which it passed the legislation, and it is reopened for further debate and voting.

Assuming that our hypothetical bill, H.R. 10, is on export controls, it is possible that the bill passed by the Senate bears the same number (whether or not the text of the bill has been changed). In many cases, however, the Senate will pass legislation bearing a Senate number (S. 543, for example) on the same subject as H.R. 10. If this happens, just before final passage, a Senator can move to substitute the text of S. 543 for the text of H.R. 10, with the vote on final passage taken on the House bill number but the Senate bill text. This process simplifies the next stage of the legislative process in which a “conference committee” meets to resolve differences between the House and Senate versions of the legislation.

Once passed, the Secretary of the Senate prepares an engrossed version of the bill. Together with the House-engrossed legislation, it is sent to the House with a message indicating the action the Senate has taken and requesting the House to concur in any changes the Senate has made in the legislation.

ZONE FIVE: **-CONFERENCE COMMITTEE ACTION-**

The two differing versions of H.R. 10 passed by the House and Senate are now placed on the Speaker's table. In some cases, the chairman of the committee that had jurisdiction over the House version of H.R. 10 may ask unanimous consent to take the legislation up and concur in (i.e., agree to) the Senate's version. If there is objection to this request, the legislation usually must first be considered in the Committee of the Whole and then approved by the House.

In the alternative, the committee chairman may request unanimous consent to take the legislation with the Senate amendments from the Speaker's table, disagree to the amendments, and request a conference with the Senate to resolve the differences between the House and Senate versions of H.R. 10. If there is objection to this request, it is usually necessary for the House Rules Committee to report a rule requesting a conference.

It would also have been possible for the Senate to initiate the request for a conference on H.R. 10 if the request was made before the engrossed legislation was sent to the House. Only the chamber possessing the two engrossed items can request a conference. Which chamber requests a conference can become an important procedural determinant later in the legislative process.

Either the House or the Senate may vote to **instruct its conferees**. An instruction is usually used to tell the conferees that they must not drop a particular provision of that house's version of the legislation.



Once the House has requested a conference, the Speaker appoints the House conferees, a majority of who must be supporters of the House version of the legislation. The Speaker usually appoints those who are recommended by the chairman of the committee that reported out the legislation. The chairman, in turn, consults the ranking minority member of the committee for recommendations of minority party House conferees. The number of House conferees varies, depending on the legislation and the committee(s) involved. In addition, seniority often (but not always) dictates which members of a committee are chosen as conferees.

If the Senate agrees to the request for a conference, the Presiding Officer appoints conferees by unanimous consent using a procedure that is similar to that of the House. The number of Senate conferees does not have to equal the number of House conferees. House and Senate conferees meet together as a **conference committee**, but each set of conferees is a separate unit. Thus, a majority

of the House conferees determines the House position on an amendment in conference, and vice versa.

The conferees can only consider matters that are in disagreement between the two versions of the legislation. Thus, for example, they cannot change or strike a provision of the House version of H.R. 10 that was not changed by the Senate. If an item in disagreement involves monetary figures, the House and Senate figures from the upper and lower limits of the figure on which the conferees must agree. In general, House rules prohibit its conferees from making or agreeing to non-germane changes to the legislation. Thus, if the Senate version of H.R. 10 contained a non-germane amendment, it is unlikely that the House conferees will agree to the amendment. However, the chairman of the House committee can request a rule waiving this germaneness requirement.

Either the House or the Senate may **recede** from some or all of the provisions of its version of the legislation which are in disagreement, and either may agree to some or all of the provisions in disagreement adopted by the other body. In the alternative, the conferees may fashion a compromise between differing provisions.

When the conferees have resolved all differences, they issue a **conference report** that includes the language of their agreement and an explanation of the differing House and Senate provisions. When the conference report comes before the House and Senate for approval, it is not subject to amendment (although it may be filibustered in the Senate).



Occasionally, the conferees are not able to reach agreement on all issues. In such a case, either the conference committee will fail to issue a report, or it will issue a report which includes those items on which it was in agreement and those where there was disagreement. If the conference committee fails to issue a report, the legislation is usually killed (although new conferees can be appointed to make another effort). If the conference committee reports some items in disagreement, those items are subject to separate votes when the conference report comes before the House and Senate. If the results of those separate votes perpetuate the disagreement, the conferees can meet again to try to resolve the differences.

A conference report must be signed by a majority of the conferees of each house. There is no opportunity for the inclusion of minority views in the conference report.

ZONE SIX:

-HOUSE & SENATE ACTION ON THE CONFERENCE REPORT-

The report is sent first to the chamber that agreed to the request for a conference. Thus, if the House requested a conference on H.R. 10, the Senate must be the first to vote on the conference report. No amendments to the conference report are in order in either the House or Senate. If a majority of the Senators present and voting disapproves the conference report, it is sent back to the conference committee for further action.

If, however, a majority approves, the Senate conferees are discharged, and the conference report is sent to the House. There, after three calendar days (excluding weekends and holidays), the House can vote on the report. If it disapproves, the matter cannot go back to conference because the Senate conferees have already been discharged. Instead, a new conference will have to be requested.

ZONE SEVEN:

-PRESIDENTIAL APPROVAL-

When both chambers agree on identical legislation, the measure is sent to the **enrolling clerk** of the chamber which originated the legislation together with the engrossed versions of the House and Senate legislation and a copy of the conference report as adopted by both chambers. An **enrolled copy** of the final legislation is prepared on parchment paper and signed first by the Speaker and then by the President of the Senate (or their designees). Enrolled legislation refers to legislation that has been approved in identical form by both the House of Representatives and the Senate (two engrossed items). Either the Clerk of the House or the Secretary of the Senate (depending on which house originated the legislation) must certify that the final copy of the legislation is correct. A clerk of the House or Senate then delivers a copy of the **enrolled legislation** to the White House and obtains a receipt. The date on this receipt begins the 10- day period provided by the Constitution during which the President must act on the measure.



If the President approves the legislation, he writes “approved” on it and signs it. In the alternative, the President can take no action during the 10-day period. So long as Congress is in session during this period, the legislation automatically becomes law. If, however, Congress is not in session during this period and the President does not act, the measure fails to become law. This is known as a **pocket veto**.

The President may also disapprove the legislation by returning it to the chamber in which it originated together with a statement of his objections. This act of disapproval is called a veto and the statement containing the President’s objections is called a veto message. Under the Constitution, the U.S. Supreme Court has ruled the President may not veto only a portion of the legislation. The President can only veto an entire bill. The **veto message** is sent to the chamber that originated the bill.

The chamber receiving the veto message can **override the veto** by a vote of two-thirds of the Members present and voting. If this happens, two-thirds of the members of the other chamber present and voting must also vote to override the veto. Only then can the measure become law despite the President’s objections. Once approved, the legislation becomes a law and takes effect either immediately or upon the date specified in the law.

The measure is published as a public law and is assigned a **public law** number. The first measure in a Congress to become a public law is assigned the number “1,” preceded by the number of the Congress (i.e., Public Law No. 108-1). All subsequent measures in that Congress which become law are numbered sequentially thereafter. This version of the law is known technically as the **slip law**. In addition, it will be more formally printed as part of the United States Statutes at Large (a permanent collection of all U.S. laws) and is usually codified as part of the United States Code (where laws are arranged by subject).

CONCLUSION

We have seen H.R. 10 start as an idea, become introduced as legislation, pass through the committee and floor consideration process of the House, pass through the same process in the Senate, go through a conference committee, receive the final approval of the House and Senate, and then become public law. It has been an arduous process -- one which only a small percentage of legislation will circumnavigate.

In part, the many hurdles of the legislative process serve to assure that only legislation which receives careful consideration has a chance of becoming law. However, they also present proponents and opponents of legislation with a myriad of opportunities to influence the outcome of the legislative process. Cynics often complain that it is the special interests that are able to manipulate this process to their advantage -- and to the disadvantage of the general interest. But ours is a nation of special interests. James Madison, the principal architect of our Constitution, understood this fact and helped to design the legislative process so that the voices of the special interests could be melded into policies which benefited the national interest.



That there have been many examples of special interest legislation which have not benefited the national interest neither proves Madison wrong or that our system of lawmaking does not work. It simply is as imperfect as the human beings we elect to represent us. Congress responds best to those who understand how it operates and make use of that knowledge to make their voices heard. It can be hoped that this handbook will contribute to spreading that knowledge and encouraging more voices to be raised.

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