

How Congress Makes Laws

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Table of Contents

- I. Preface
- II. Structure of Our Government – Three Branches
- III. How Laws Get Started
- IV. How Bills Become Laws
- V. Legislative Process Overview
- VI. Bibliography

Preface

Knowing the status of a Congressional bill is just as important as the content of the bill itself. Understanding which bills make it through the “political gauntlet” of the congressional legislative process, and why they did or did not, tells us much about the priorities of our politicians and the political mood of the country.

The purpose of this ePamphlet is to give readers a basic understanding of the processes Congress uses to create bills so they can better decode what's happening in Washington. This document is meant to be a brief overview of those processes. We provide links to fine materials that provide more detail of the congressional legislative process than is presented here should you wish to read further on the topic.

Chapter I. Structure of Our Government – Three Branches

The U.S. Constitution creates an institutional structure that consists of three branches of government. The Congress is the legislative branch which writes laws, the Judiciary governs our nation's courts and also creates laws and the Executive branch which outlines the power that the President can take in relation to the two other governmental branches, the Judiciary and the Congress.

The Founders created Congress in Article 1 of the U.S. Constitution, sections 1 and 2. It consists of two bodies, the House of Representatives and the Senate. Why do we have this “bi-cameral” or “two chamber” structure? The nation's founders wanted to ensure that the government's powers are distributed amongst the three branches so that no one body has all the power to govern the nation's affairs.

“In a typical session of Congress, well over 10,000 pieces of legislation are introduced for consideration. “Legislation”, when used as a verb, means the consideration and enactment of laws. In practice, many will be considered, few will be enacted. During the 105th Congress, for example, 13,882 pieces of legislation were introduced. Out of all of those, only 354 (2.6%) ended up getting a presidential autograph to become enacted laws. What happened to all the rest? Some were voted down, some got vetoed, but the vast majority died in the intricate system of Congressional Committees.”

Source: Robert Longely, US Government Info. About.com – Congressional Committee System

Selecting Our Representatives

The Founders of our governmental structure intended that the House of Representatives more closely represent the will of the people. When the House considers a bill, they tend to think about how a bill will impact the members of their districts, while the Senate was designed to consider how a bill will impact that nation as a whole.

House Representatives are elected every 2 years. Where population supports it, there are 2 representatives from each state. Some states with sparse populations will only have 1 Representative. House Representatives represent citizens located in geographically defined districts within a given state. The two year term ensures that House Representatives will keep in close contact with their constituents and creates a strong incentive to learn their needs and opinions in order to re-elected to subsequent terms.

Senators are elected for six year terms. The founders intended them to be more insulated from the short-term pressures of public opinion. Unlike House Representatives, Senators are elected by and represent all the citizens in their state.

Through allowing for longer terms, the Founders wanted Senators to consider the long-term effects of legislation and engage in a more mature, deliberative approach when working with the House of Representatives to craft laws. In order to create legislation, laws must be approved by both the House of Representatives and the Senate.

Chapter II. How Laws Get Started

Potential new laws start their existence as “bills” most often introduced by either House Representatives or Senators. The person or persons who introduce bills are known as the “sponsors” of the bill. There are four types of legislation that can be introduced by Congress:

Bills – are the most common type of legislation. Bills may originate in either the House of Representatives or the Senate with one notable exception. Article I, Section 7, of the Constitution provides that all bills for raising revenue shall originate in the House of Representatives but that the Senate may propose, or concur with, amendments. They can be either public or private. Public Bills affect the general public whereas private bills affect a specific entity or individual. Bills originating in the House begin with the letters “HR “ (HR stands for House of Representatives) and then the number and “S” stands for the Senate. A Companion bill is one that is similar or identical to ones introduced by each chamber of Congress.

Simple Resolutions – address rules, operations or opinions of either the House or the Senate. Simple Resolutions expressing opinions of either the House or the Senate are called the “Sense of the House of Representatives” or

the “Sense of the Senate”. A Resolution of the House can be identified as “H.Res.” followed by its number or “S. Res.” accompanied by its number.

Joint Resolutions – are not as the name as the implies, a bill introduced in both chambers. They are similar to bills and the terms are often used interchangeably. The only difference is that a joint resolution may include a preamble stating the purpose or effect of the resolution. House Resolutions are designated by the letters “H.J. Res.” and in the Senate by “S.J. Res.”, followed by its corresponding number. Legislation may start out as a bill and then may be later amended by a joint resolution and vice versa. Bills and Joint Resolutions go through the same legislative procedure except for a joint resolution which attempts to amend the Constitution. When a joint resolution amending the Constitution is approved by two-thirds of both Houses, it's not presented to the President for approval. Following congressional approval, the joint resolution to amend the Constitution is sent directly to the Archivist of the United States for submission to the state legislatures, where ratification of three-fourths of the states is required to approve the amendment. Most joint resolutions become laws, but the Congressional Budget Resolution serves as an exception to this rule. The Congressional Budget Resolution does not go to the President for approval and signing into law. The Budget Resolution serves as a guide on how Congress will allocate and appropriate federal funds – it never becomes law. Separate budget related laws force Congress to adhere to the Budget Resolution and establish procedures for balancing the federal budget. One of the most important is the Congressional Budget and Impoundment Act of 1974 requires Congress to adopt an annual budget resolution that sets revenue, spending, the surplus or deficit, debt totals and allocates spending among 20 governmental function categories.

Concurrent Resolutions – are related to operational matters affecting both the House of Representatives and the Senate. Like joint resolutions, concurrent resolutions do not represent simultaneous introduction of resolutions in both chambers of Congress. A concurrent resolution is a resolution passed by both the House of Representatives and the Senate but is not presented to the President and does not have the force of law. Concurrent Resolutions express facts, opinions, principals and purposes of either the House or the Senate. A concurrent resolution originating in the House is designated with the letters, “H.Con. Res.” and in the Senate as “S.Con.Res.”

Examples of concurrent resolutions include:

- Providing for a recess or adjournment of more than three days during the session of Congress (required by Article I, Section 5 of the United States Constitution, "Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.")
- Permitting the use of the Capitol rotunda, which is under the control of both Houses
- Providing for a joint session of Congress, normally to hear a message from the President, such as the State of the Union address

- Asking the President to return a bill that has been presented to him, before he has signed or vetoed the bill
- Launching the budget process
- Creating a temporary joint committee

Sources of Ideas for Legislation

Ideas for legislation are unlimited and proposed drafts of bills originate from many different sources.

1. The primary source of legislation is often proposed by a Member because of an election campaign promise to constituents.
2. Members may amend or repeal an existing law or the enactment of new laws under consideration.
The Presidential “executive communication” has become a prolific source of legislative proposals.
3. The communication is usually in the form of a message or letter from a member of the President’s Cabinet, the head of an independent agency, or the President himself. The President may transmit a draft of a proposed bill to the Speaker of the House of Representatives and the President of the Senate.
4. Many executive communications follow the President’s message to Congress on the State of the Union. The communication is then referred to the standing committee or committees having jurisdiction of the subject matter of the proposal. The chairman or the ranking minority member of the relevant committee often introduces the bill, either in the form in which it was received or with desired changes.