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Introduction to the Legislative Process in the U.S. Congress

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Summary

This report introduces the main steps through which a bill (or other item of business) may travel in the legislative process—from introduction to committee and floor consideration to possible presidential consideration. However, the process by which a bill can become law is rarely predictable and can vary significantly from bill to bill. In fact, for many bills, the process will not follow the sequence of congressional stages that are often understood to make up the legislative process. This report presents a look at each of the common stages through which a bill may move, but complications and variations abound in practice.

Throughout, the report provides references to a variety of other CRS reports that focus on specific elements of congressional procedure. CRS also has many other reports not cited herein that address some procedural issues in additional detail (including congressional budget and appropriations processes). These reports are organized by subissue at https://www.crs.gov/iap/legislative-and-budget-process.

Congressional action on bills is typically planned and coordinated by party leaders in each chamber, though as described in this report, majority party leaders in the House have more tools with which to set the floor agenda than do majority party leaders in the Senate. In both chambers, much of the policy expertise resides in the standing committees, panels of Members who typically take the lead in developing and assessing proposed legislation within specified policy jurisdictions.

Introduction and Referral of Legislation. Once a Member of the House or Senate introduces a bill, it is typically referred to the committee (or committees) in that chamber with jurisdiction over its elements. Committees do not formally consider each of these referred bills. The committee chair has the primary agenda-setting authority for each committee and identifies which bills will receive formal committee attention during the course of the two-year Congress. (Committees are not limited, however, to consideration of measures referred to them and may initiate legislative action on their own.)

Committee Consideration. A committee may conduct hearings on a bill to provide committee members and the public an opportunity to hear from selected parties (e.g., a federal agency or organized interest) about the bill's strengths and weaknesses. If the committee wants to formally recommend that the bill receive consideration from its parent chamber, it will hold a markup on the bill, at which committee members vote on any proposed amendments. The markup concludes when the committee agrees, by majority vote, to report the bill (with any recommended changes adopted in the markup) to its chamber.

Floor Scheduling. In the House, majority party leaders generally decide which bills will receive floor consideration; typically, they schedule a bill for a type of streamlined floor consideration, or instead ask the Rules Committee to propose a set of tailored parameters for floor consideration. In the Senate, bills are brought to the floor only after the Senate agrees to a motion (typically offered by the majority leader) to proceed to a specific bill or, alternatively, if no Senator objects to a unanimous consent request to bring it up.

House Floor Consideration. In the House, most bills that receive consideration do so under a procedure called "suspension of the rules," which limits debate to 40 minutes and prohibits floor amendments, but requires two-thirds of Members voting to agree. Most other bills are considered under tailored debate and amending parameters set by the terms of a special rule reported by the House Rules Committee (which effectively operates as an arm of the majority party leadership). The House first votes to adopt the special rule, and then can proceed to debate and potentially amend the bill (typically accomplished in a setting called Committee of the Whole). After any

debate and amending process is complete, the House then typically votes on a minority party alternative (through a vote on a motion to recommit) before proceeding to a final vote on passage.

Senate Floor Consideration. In the Senate, once the chamber has agreed to bring up a bill, it can be considered under rules and practices that allow for a wide-ranging debate and amendment process. A defining feature of Senate floor consideration is that no rule permits a numerical majority to end debate and proceed to a final vote on most questions (e.g., a bill or amendment). Thus, Senators may wage a filibuster, effectively threatening extended debate or other actions that would delay or prevent a final vote. The Senate's cloture rule provides a process, however, by which a supermajority of the Senate (usually three-fifths) can, over a series of days, place a limit on debate (as well as limits on amendments) and eventually reach a final vote. These rules and practices provide extraordinary leverage to individual Senators, but frequently the Senate decides it can more effectively act by putting aside the formal rules and instead agreeing—by unanimous consent—to tailored parameters on debate and amending.

Executive Business in the Senate. The Senate has the unique responsibility to confirm certain presidential nominations and to approve treaties. Nominations and treaties are treated very much like bills: they are referred to committees, where they may be considered and reported to the chamber. On the floor, a ratification of a treaty requires the support of two-thirds of voting Senators. Nominations considered on the floor may be confirmed by a numerical majority, but they are subject to debate, such that reaching a final vote may require a successful cloture process. Unlike on other questions, the vote threshold to invoke cloture on a nomination is a numerical majority pursuant to changes in Senate procedure made in 2013 and 2017.

Resolving Differences between the Chambers. At some point in the legislative process, either the House must act on a Senate bill, or the Senate must act on a House bill since only one can be presented to the President. One chamber frequently agrees to a bill—without changes—that was sent to it by the other, but sometimes each chamber proposes changes to a bill sent to it by the other. The chambers resolve their differences on the competing proposals either through a back-and-forth trading of alternative proposals (called amendments between the houses), or by convening an ad hoc conference committee in which House and Senate Members from the relevant committees are appointed to hammer out a compromise called a conference report. After both chambers have agreed to identical text (either by agreeing to the other chamber's proposal during amendments between the houses or by agreeing to the conference report), the bill can be presented to the President.

Presidential Action. The President has 10 days, excluding Sundays, to sign or veto a bill. If it is vetoed, it can only become law if Congress agrees—by two-thirds in each chamber, separately—to override the veto. Successful overrides of presidential vetoes are rare, so Congress typically must accommodate the President's position earlier in the process.

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Overview

Article I of the U.S. Constitution grants all legislative powers to a bicameral Congress: a House of Representatives and a Senate that are the result of a "Great Compromise" seeking to balance the effects of popular majorities with the interests of the states. Our system currently provides for a two-year term of office for House Members from the 435 population-based districts.[1] In the Senate, voters of each state elect two Senators, who serve six-year terms that overlap (such that only one-third of the chamber is up for election in any given election cycle).

The two chambers are fundamentally equal in their legislative roles and functions. Only the Senate confirms presidential nominations and approves treaties. Only the House can originate revenue legislation, but the Senate can amend revenue legislation, and the enactment of law always requires both chambers to separately agree to the same bill in the same form before presenting it to the President.

Because each chamber has the constitutional authority to make its own rules, the House and Senate have developed very different ways of processing legislation, perhaps partially flowing from their constitutional differences. In general, House rules and practices allow a numerical majority to process legislation relatively quickly. Senate rules and procedures, on the other hand, favor deliberation over quick action, as they provide significant procedural leverage to individual Senators.

Congressional action is typically planned and coordinated by party leaders in each chamber, who have been chosen by Members of their own caucus or conference—that is, the group of Members in a chamber who share a party affiliation. Majority party leaders in the House have important powers and prerogatives to effectively set the policy agenda and decide which proposals will receive floor consideration. In the Senate, the leader of the majority party is generally expected to propose items for consideration, but formal tools that allow a numerical majority to take action are few. Instead, majority party leadership typically must negotiate with minority party leaders (and often all Senators) to effectively conduct Senate floor action.

In both chambers, much of the policy expertise resides in the standing committees—panels of Members from both parties that typically take the lead in developing and assessing legislation.[2] Members typically serve on a small number of committees, often for many years, allowing them to become highly knowledgeable in certain policy areas. All committees are chaired by a Member of the majority party, though chairs often work closely with the committee's ranking member, the leader of the minority party on the committee. In almost all cases, the ratio of majority party to minority party members on a committee roughly reflects the overall partisan ratio in the congressional chamber.

Committee members and staff spend much of their time drafting and considering legislative proposals, but committees engage in other activities, as well. Once law is enacted, Congress has the prerogative and responsibility to provide oversight of policy implementation, and its committees take the lead in this effort. Both chambers provide their committees with significant

[1] The Resident Commissioner of Puerto Rico and the five House Delegates representing American Samoa, the District of Columbia, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands are not Members of the House and do not enjoy all of the parliamentary rights (e.g., voting on the floor) of Members of Congress. See CRS Report R40170, *Parliamentary Rights of the Delegates and Resident Commissioner from Puerto Rico*, by Christopher M. Davis.

[2] See CRS Report 98-241, *Committee Types and Roles*, by Valerie Heitshusen.

powers and latitude for oversight and investigations into questions of public policy and its effects.[3]

Although the engine of legislative ideas and action is Congress itself, the President has influence in the legislative process, as well. The President recommends an annual budget for federal agencies and often suggests legislation. Perhaps more significantly, the power to veto legislation can affect the content of bills passed by Congress. Because it is quite unusual for law to be enacted over a presidential veto, Congress typically must accommodate the President's position on proposed policies.

The process by which a bill becomes law is rarely predictable and can vary significantly from bill to bill. In fact, for many bills, the process will not follow the sequence of congressional stages that are often understood to make up the legislative process.[4] This report presents a look at each of the common stages through which a bill may move, but complications and variations abound in practice.[5]

Introduction and Referral of Legislation[6]

Legislation may take one of several forms, depending on the intended purpose. Bills and joint resolutions may become law if enacted during the two-year Congress in which they were introduced. Simple resolutions and concurrent resolutions are the other options; these measures cannot make law, but may be used by each chamber, or by both, to publicly express sentiments or accomplish internal administrative or organizational tasks, such as establishing their rules for proceeding.[7]

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[3] For more detail on questions of congressional oversight, see CRS Report R41079, *Congressional Oversight: An Overview*, by Walter J. Oleszek; and CRS Report RL30240, *Congressional Oversight Manual*, coordinated by Christopher M. Davis, Walter J. Oleszek, and Ben Wilhelm.

[4] See CRS Report IG10005, *From Bill to Law: Stages of the Legislative Process*, by Valerie Heitshusen and Jennifer E. Manning, a one-page CRS infographic that visually presents the relationship among these congressional stages.

[5] House and Senate consideration of specific types of legislation is sometimes governed by so-called "rule-making" statutes—that is, provisions in law that provide for congressional action in ways that departs from typical procedures set by chamber standing rules, precedents, and practices. For instance, the Congressional Budget Act of 1974, as amended, establishes such procedures in relation to certain budgetary measures. Other examples of statutes with "rule-making" provisions include the Congressional Review Act of 1996 (P.L. 104-121), the Budget Control Act of 2011 (P.L. 112-25), the Iran Nuclear Agreement Review Act of 2015 (P.L. 114-17), and the National Emergencies Act of 1976 (P.L. 94-412). Variations in congressional procedure established by statute are not covered in this report. For more detail and discussion of some rule-making statutes, see CRS Report RS20234, *Expedited or "Fast-Track" Legislative Procedures*, by Christopher M. Davis. In addition, there are numerous CRS reports that focus specifically on how Congress processes budget and appropriations-related measures, available https://www.crs.gov/iap/legislative-and-budget-process (select "Budget & Appropriations Procedure" subissue).

[6] For more detail on the introduction of legislation, see CRS Report R44001, *Introducing a House Bill or Resolution*, and CRS Report R44195, *Introducing a Senate Bill or Resolution*, both by Mark J. Oleszek. On referral, see CRS Report R46251, *Committee Jurisdiction and Referral in the House*, by Mark J. Oleszek; and CRS Report 98-242, *Committee Jurisdiction and Referral in the Senate*, by Judy Schneider. For a list of CRS reports that focus specifically on bill introduction and related issues, see https://www.crs.gov/iap/legislative-and-budget-process (select "Congressional Bill Introduction" subissue).

[7] Bills and joint resolutions can potentially go through all of the legislative stages detailed in this report, with the exception of joint resolutions that propose a constitutional amendment (which are not presented to the President). Simple resolutions can only be considered in the chamber in which they originated, and they are never presented to the other chamber (or to the President). Concurrent resolutions are potentially considered in both chambers, but are also not presented to the President. Thus, many of the steps in the legislative process described below are not applicable to all kind of measures. See CRS Report R46603, *Bills, Resolutions, Nominations, and Treaties: Characteristics and*

Only Members of the House or Senate may introduce legislation, though occasionally a Member introduces legislation by request of the President. Members and their staff typically consult with nonpartisan attorneys in each chamber's Legislative Counsel office for assistance in putting policy proposals into legislative language. Members may circulate the bill and ask others in the chamber—often via Dear Colleague letters—to sign on as original co-sponsors of a bill to demonstrate a solid base of support for the idea.[8] In the House, a bill is introduced when it is dropped in the hopper (a wooden box on the House floor).[9] In the Senate, the bill is submitted to clerks on the Senate floor. Upon introduction, the bill will receive a designation based on the chamber of introduction, for example, H.R. or H.J.Res. for House-originated bills or joint resolutions and S. or S.J.Res. for Senate-originated measures. It will also receive a number, which is typically the next number available in sequence during that two-year Congress.[10]

In the House, bills then are referred by the Speaker, on the advice of the nonpartisan parliamentarian, to all committees that have jurisdiction over the provisions in the bill, as determined by the chamber's standing rules and past referral decisions. Most bills fall under the jurisdiction of one committee. If multiple committees are involved and receive the bill, each committee may work only on the portion of the bill under its jurisdiction. One of those committees will be designated the primary committee of jurisdiction and will likely take the lead on any action that may occur.

In the Senate, bills are typically referred to committee in a similar process, though in almost all cases, the bill is referred to only the committee with jurisdiction over the issue that predominates in the bill. In a limited number of cases, a bill might not be referred to committee, but instead be placed directly on the Senate Calendar of Business through a series of procedural steps on the floor.[11]

Committee Consideration[12]

Each committee receives many bill referrals over the course of a Congress—far more than the panel is capable of pursuing in any detail. The committee's chair has the chief agenda-setting authority for the committee; in essence, the chair identifies the bills or issues on which the committee will try to formally act through hearings or markups (or both).

Examples of Use, by Jane A. Hudiburg.

[8] See CRS Report 98-279, *Sponsorship and Cosponsorship of Senate Bills*, and CRS Report RS22477, *Sponsorship and Cosponsorship of House Bills*, both by Mark J. Oleszek.

[9] During the public health emergency due to a novel coronavirus in 2020, the House provided for the electronic submission of certain legislative documents. See Speaker's letter dated April 6, 2020, reprinted in "Electronic Submission of Floor Documents," Extension of Remarks, *Congressional Record*, daily edition, vol. 166 (April 10, 2020), p. E357.

[10] See CRS Report R46603, *Bills, Resolutions, Nominations, and Treaties: Characteristics and Examples of Use*, by Jane A. Hudiburg.

[11] See CRS Report RS22309, *Senate Rule XIV Procedure for Placing Measures Directly on the Senate Calendar*, by Christopher M. Davis.

[12] For a list of CRS reports that focus specifically on committee procedure, see https://www.crs.gov/iap/legislative-and-budget-process (select "Congressional Committee Rules and Procedure" subissue).

Hearings[13]

The first formal committee action on a bill or issue might be a hearing, which provides a forum at which committee Members and the public can hear about the strengths and weaknesses of a proposal from selected parties—like key executive branch agencies, relevant industries, and groups representing interested citizens. Hearings are also a way to spotlight legislation to colleagues, the public, and the press. At the hearing, invited witnesses provide short oral remarks to the assembled committee, but each witness also submits a longer written version of his or her feedback on the bill. After witnesses' oral statements, Members of the committee take turns asking questions of the witnesses.

Although these hearings provide the formal public setting at which feedback is solicited on the policy proposal, committee Members and staff engage in additional assessment of the approach through informal briefings and other mechanisms. Also note that a hearing is not required from a procedural standpoint for a bill to receive further action from the committee.

Markups[14]

A committee markup is the key formal step a committee ultimately takes for the bill to advance to the floor. Normally, the committee chair chooses the proposal that will be placed before the committee for markup: a referred bill or a new draft text. At this meeting, which is typically open to the public, Members of the committee consider possible changes to the proposal by offering and voting on amendments to it, including possibly a complete substitute for its text.

A markup concludes when the committee agrees, by majority vote, to report the bill to the chamber.[15] Committees rarely hold a markup unless the proposal in question is expected to receive majority support on that vote. The committee may vote to report a referred bill, with recommended changes that reflect any amendments adopted during the markup.[16] As an

[13] On hearings in House committees, see CRS Report 98-317, *Types of Committee Hearings*, by Valerie Heitshusen; and CRS Report 98-488, *House Committee Hearings: Preparation*; CRS Report 98-339, *House Committee Hearings: Scheduling and Notification*; CRS Report 98-304, *House Committee Hearings: Arranging Witnesses*; CRS Report 98-338, *House Committee Hearings: Witness Testimony*; and CRS Report RS22637, *House Committee Hearings: The "Minority Witness Rule"*, all by Christopher M. Davis. On hearings in Senate committees, see CRS Report 98-336, *Senate Committee Hearings: Arranging Witnesses*; CRS Report 98-489, *Senate Committee Hearings: Preparation*; and CRS Report 98-337, *Senate Committee Hearings: Scheduling and Notification*, all by Valerie Heitshusen; and CRS Report RS22649, *Senate Committee Hearings: The "Minority Witness Rule"*, by Christopher M. Davis.

[14] On markups in Senate committees, see CRS Report 98-243, *Preparation for Senate Committee Markup*; CRS Report 98-244, *Markup in Senate Committee: Choosing a Text*; CRS Report 98-245, *Markup in Senate Committee: Considering Amendments*; and CRS Report 98-246, *Reporting a Measure from a Senate Committee*, all by Elizabeth Rybicki. On markups in House committees, see CRS Report RL30244, *The Committee Markup Process in the House of Representatives*, by Judy Schneider; and CRS Report 97-1045, *House Rules and Precedents Affecting Committee Markup Procedures*, by Christopher M. Davis.

[15] A bill is "ordered reported" when the committee votes to do so at a mark-up, but it is not actually "reported" by the committee until it is filed in the House. A delay between these two steps may occur. Once a committee reports a bill, it is often accompanied by a committee report, a document that explains the provisions in the bill and any changes recommended by the committee and also includes recorded votes held in committee markup, a cost estimate, and other information. See CRS Report 98-169, *House Committee Reports: Required Contents*, by Judy Schneider; and CRS Report 98-305, *Senate Committee Reports: Required Contents*, by Elizabeth Rybicki.

[16] The adoption of amendments in committee does not translate directly into a change in an introduced and referred bill that is before the committee. Instead, the committee may recommend that the chamber adopt the amendments that the committee has adopted and reported to the chamber. In current practice, committee often reports to its parent chamber one complete substitute amendment (often called an "amendment in the nature of a substitute") to the bill that embodies all of the individual proposed changes that were agreed to in the committee markup.

alternative to a referred bill, it may instead report out an original or clean bill that was basically written in the markup process itself from a draft proposal.[17]

Role of Subcommittees

Most House and Senate committees also establish subcommittees—subpanels of the full committee where Members can further focus on specific elements of the policy area. The extent to which subcommittees play a formal role in policymaking—for example, by holding hearings or marking up legislation prior to full committee consideration—varies by chamber and by committee tradition and practice. Whatever role a full committee allows its subcommittees to play, subcommittees cannot report legislation to the chamber; only full committees may do so.

Floor Scheduling

Once a committee has reported a bill, it is placed on one of the respective chambers' calendars.[18] These calendars are essentially a list of bills eligible for floor consideration; however, the bills on the calendars are not guaranteed floor consideration. Many will never be brought up on the floor during the course of a two-year Congress. It is also possible, although less common, for a bill to come directly to the floor without being reported and placed on a calendar.

In the House, majority party leadership decides which bills the House will consider, and in what order. For example, after consulting with committee leaders, majority party leadership may decide to schedule a bill for expedited floor consideration. Alternatively, leadership may ask the Rules Committee to start the process of bringing a specific bill to the floor for more lengthy consideration and possible amendments. These different mechanisms by which the majority party proposes floor consideration of a bill are discussed in more detail in the next section.

In the Senate, majority party leadership does not have procedures like those in the House for bringing bills to the floor. One way the Senate can take up a bill is by agreeing to a motion to proceed to consider it. Once a Senator—typically the majority leader—makes such a motion that the Senate proceed to a certain bill, the Senate can then normally debate the motion to proceed.[19] If it eventually agrees to the motion by a majority vote, the Senate can then begin consideration of the bill. Alternatively, the majority leader can ask unanimous consent that the Senate take up a certain bill. If no one objects to such a request when it is made, then the Senate can immediately begin consideration of the bill in question. (When the leader refrains from making such a request because he has been informed that a Senator would object, it is often said that a Senator has placed a hold[20] on the bill.)

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[17] All Senate standing committees have the authority to report original bills (which are introduced on the committee's behalf by the chair). Some House committees have such authority in specific instances. More detail on forms of committee reporting are provided in CRS Report 98-246, *Reporting a Measure from a Senate Committee*, by Elizabeth Rybicki; and CRS Report RL30244, *The Committee Markup Process in the House of Representatives*, by Judy Schneider.

[18] For more detail, see CRS Report 98-437, *Calendars of the House of Representatives*, by Christopher M. Davis, and CRS Report 98-429, *The Senate's Calendar of Business*, and CRS Report 98-438, *The Senate's Executive Calendar*, both by Elizabeth Rybicki.

[19] Some measures and matters can be brought up for floor consideration without debate—for example, a conference report, House amendments, a specific nomination on the Executive Calendar—though the item itself would still be subject to debate.

[20] See CRS Report R43563, *"Holds" in the Senate*, by Mark J. Oleszek.

In both chambers, party leaders keep their membership informed of the anticipated floor schedule using various methods—like periodic whip notices or other frequent communications.

House Floor Consideration[21]

The House considers bills under a variety of procedures, each of which differs in the amount of time allotted for debate and the opportunities given to Members to propose amendments.[22] Most bills are considered under "suspension of the rules"[23] procedures, which limits debate to 40 minutes and does not allow amendments to be offered by Members on the floor. However, for the House to pass a bill under suspension of the rules requires two-thirds of Members voting to agree.

Bills not considered on the House floor under suspension of the rules are typically considered instead under terms tailored for each particular bill. The House establishes these parameters on a case-by-case basis through the adoption of a simple House resolution (an H. Res.) called a special rule.[24] Special rules are reported by the House Rules Committee. This committee is considered an arm of the majority party leadership, and majority party members outnumber minority party members, nine to four. Common provisions found in a special rule include the identification of the text to be considered, a specified period for general debate, and limits on the amendments that can be offered on the floor. For instance, sometimes the committee reports a rule that places few restrictions at all on amending, which can result in dozens of amendments being offered on the floor during consideration. In other cases, the special rule will allow only specific predetermined amendments to be offered, or even preclude floor amendments altogether.[25]

Note that House rules also place certain other limitations on the content of amendments, unless the special rule waives these restrictions.[26] For instance, amendments must typically be germane to the text they propose to change. That is, an amendment cannot change the subject under consideration.[27]

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[21] For a brief overview of House floor consideration, see CRS Report R43424, *Considering Legislation on the House Floor: Common Practices in Brief*, by Elizabeth Rybicki. A more detailed overview can be found in CRS Report 95-563, *The Legislative Process on the House Floor: An Introduction*, by Christopher M. Davis. On enforcement of the rules, see CRS Report 98-307, *Points of Order, Rulings, and Appeals in the House of Representatives*, by Valerie Heitshusen. See also CRS Report R46485, *The House Consensus Calendar: Establishment, Principal Features, and Practice in the 116th Congress (2019-2020)*, by Jane A. Hudiburg. For a list of CRS reports that focus specifically on House floor procedure, see https://www.crs.gov/iap/legislative-and-budget-process (select "House Floor Procedure" subissue).

[22] See CRS Report RS20067, *How Measures Are Brought to the House Floor: A Brief Introduction*, by Christopher M. Davis.

[23] See CRS Report 98-314, *Suspension of the Rules in the House: Principal Features*, by Elizabeth Rybicki.

[24] See CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by Richard S. Beth; and CRS Report 98-612, *Special Rules and Options for Regulating the Amending Process*, by Megan S. Lynch. The rule can also provide that, upon its adoption, the text for consideration is immediately altered with text proposed by the Rules Committee in its report accompanying the rule. See CRS Report R44362, *Post-Committee Adjustment in the Modern House: The Use of Rules Committee Prints*, by Mark J. Oleszek.

[25] Special rules are often categorized according to the extent to which they place restrictions on floor amendments. Rules with few restrictions are commonly called "open" and those that preclude floor amendments are called "closed"; special rules that limit amendments to a specified list are typically called "structured." See CRS Report 98-612, *Special Rules and Options for Regulating the Amending Process*, by Megan S. Lynch.

[26] On the point of waivers in special rules, see CRS Report 98-433, *Special Rules and Waivers of House Rules*, by Megan S. Lynch.

[27] The germaneness concept is stricter than relevancy and reflects a complex set of criteria that the House has developed by precedent over the years. For a discussion of germaneness, see CRS Report 98-995, *The Amending*

After the Rules Committee reports a rule for consideration of a bill, the House first considers that special rule itself on the House floor, for approximately one hour. After debate, the House votes on adopting the special rule;[28] only after its adoption will the House then proceed to consider the bill itself, under the terms specified by the special rule.

In this situation, the House will typically consider the bill in a procedural setting called the Committee of the Whole,[29] which allows Members an efficient way to consider and vote on amendments. After any amendments are offered and debated, Members vote on approval; each amendment requires a simple majority to be agreed to.[30]

After the amendment process is complete, the Committee of the Whole reports to the full House any recommended amendments, which are then usually approved by the House by voice vote. Just prior to voting on final passage, Members will typically briefly debate and then vote on a motion to recommit, which allows the minority party to effectively propose its own amendment.[31] In the House, some votes are taken by voice, but many votes are taken by electronic device, a method that records the individual position of each Member who voted.[32]

Senate Floor Consideration[33]

To consider a bill on the floor, the Senate first must agree to bring it up—typically by agreeing to a unanimous consent request or by voting to adopt a motion to proceed to the bill, as discussed earlier.[34] Only once the Senate has agreed to consider a bill may Senators propose amendments to it.

Perhaps the modern Senate's defining feature is the potential difficulty of reaching a final vote on a matter. Most questions that the Senate considers—from a motion to proceed to a bill, to each amendment, to the bill itself—are not subject to any debate limit. Senate rules provide no way for a simple numerical majority to cut off or otherwise impose a debate limit and move to a final vote. As a result, Senators can wage (or threaten to wage) a filibuster on most amendments, bills,

Process in the House of Representatives, by Christopher M. Davis.

[28] Immediately prior to this vote, the House will vote on the "previous question" motion on the special rule—a motion which, when agreed to, ends consideration of the special rule and allows for an immediate vote on adoption of the rule itself. The previous question motion in the House is available in other circumstances as a way for a numerical majority to end consideration of a measure, but its automatic adoption prior to a vote on a bill is typically provided for in a special rule.

[29] See CRS Report 95-563, *The Legislative Process on the House Floor: An Introduction*, by Christopher M. Davis, specifically the section entitled "In Committee of the Whole and the House."

[30] See CRS Report 98-995, *The Amending Process in the House of Representatives*, by Christopher M. Davis.

[31] See CRS Report 98-383, *Motions to Recommit in the House*, by Megan S. Lynch.

[32] See CRS Report 98-228, *House Voting Procedures: Forms and Requirements*, by Jane A. Hudiburg; and CRS Report 98-988, *Voting and Quorum Procedures in the House of Representatives*, coordinated by Elizabeth Rybicki.

[33] For more detailed overview of Senate floor procedures, see CRS Report 96-548, *The Legislative Process on the Senate Floor: An Introduction*, by Valerie Heitshusen. On enforcement of the rules, see CRS Report 98-306, *Points of Order, Rulings, and Appeals in the Senate*, by Valerie Heitshusen. For a list of CRS reports that focus specifically on Senate floor procedure, see https://www.crs.gov/iap/legislative-and-budget-process (select "Senate Floor Procedure" subissue).

[34] For more detail, see CRS Report RS20668, *How Measures Are Brought to the Senate Floor: A Brief Introduction*, by Christopher M. Davis.

or other motions—in effect, insisting on extended debate or taking other actions intended to delay or prevent a final vote.[35]

In addition, under most circumstances, neither debate nor amendments in the Senate are required to be germane.[36] This can lead to much more wide-ranging and less predictable floor consideration than typically occurs in the House.[37]

Senate Rule XXII, often called the cloture rule, does allow a supermajority to limit debate on a bill, amendment, or motion; in addition, in the case of a bill, cloture limits the amendments that can be offered. Supporters of, for instance, a bill under floor consideration can file a cloture motion, signed by at least 16 Senators. Two days of session later, Senators vote on the cloture motion. If three-fifths—usually 60 Senators[38]—agree, then further consideration of the bill is limited to 30 hours, during which only germane amendments submitted in advance can be offered. After this concluding period of consideration, the Senate will take a final vote on the bill.

This vote requires only a simple majority for approval. However, because a cloture process is often required to end debate on a bill, often the bill first must garner the support of a three-fifths supermajority. Even with the necessary supermajority support, use of this cloture process can require the use of significant amounts of Senate floor time.

Overall, these rules and practices governing floor debate and amending in the Senate provide significant leverage to each individual Senator. Rather than relying on the formal rules like cloture, however, frequently the Senate can more effectively act using unanimous consent agreements.[39] Such an agreement is a structured plan for limiting debate and amending—a plan that can be tailored to each bill that comes to the floor (somewhat akin to a special rule in the House). Through the use of these agreements, the details of which all Senators have agreed upon, the Senate can more effectively process its business while protecting the procedural rights of each of its Members.

Although many votes are conducted by voice, a recorded vote is required in some cases, and it is often requested by Senators in others. Unlike the House, the Senate does not have an electronic voting system; recorded votes are conducted through a call of the roll.[40]

Executive Business in the Senate

In addition to full legislative authority, the U.S. Constitution provides the Senate with two unique responsibilities: first, the power to confirm certain presidential nominees to the federal judiciary and certain executive branch positions; and second, the power to approve treaties. In the legislative process, treaties are treated very much like bills: they are referred to the Foreign Relations Committee, where they may be considered and reported. The Senate can consider a

[35] See CRS Report RL30360, *Filibusters and Cloture in the Senate*, by Valerie Heitshusen and Richard S. Beth.

[36] As a result, amendments may be proposed that involve policy proposals unrelated to the proposal contained in the bill under consideration.

[37] See CRS Report 98-853, *The Amending Process in the Senate*, by Christopher M. Davis.

[38] For cloture on a proposal to change the Senate standing rules, the agreement of two-thirds of those present and voting is required (Senate Rule XXII, paragraph 2).

[39] See CRS Report RS20594, *How Unanimous Consent Agreements Regulate Senate Floor Action*, by Richard S. Beth; and CRS Report 98-310, *Senate Unanimous Consent Agreements: Potential Effects on the Amendment Process*, by Valerie Heitshusen.

[40] See CRS Report 96-452, *Voting and Quorum Procedures in the Senate*, coordinated by Elizabeth Rybicki; and archived CRS Report 98-227, *Voting in the Senate: Forms and Requirements*, by Walter J. Oleszek.

treaty on the floor under similar procedures used for legislation. However, the Constitution requires that two-thirds of voting Senators agree for a treaty to be ratified.[41]

Most presidential nominations are referred to the relevant Senate committee of jurisdiction. Prior to potential committee action to report a nomination, a committee may hold a hearing at which the nominee answers questions from the committee's members. If a nominee is considered on the Senate floor, his or her confirmation requires only a simple majority vote, but nominations are debatable. Therefore, supporters of a nominee may have to use the cloture process to reach a vote on the nominee. Invoking cloture on most questions requires a vote of three-fifths of the Senate, as described earlier, but cloture can be invoked on a nomination by a simple majority threshold. Using cloture to reach a vote on a pending nomination, however, may take significant floor time.[42]

Resolving Differences Between the Chambers[43]

A bill must be agreed to by both chambers in the same form before it can be presented to the President. Therefore, at some point in the legislative process, either the House must act on a Senate bill or the Senate must act on a House bill. Frequently, identical or similar proposals are introduced in the House and in the Senate, each potentially moving through the legislative process in the chamber in which it was introduced. In this case, when one chamber receives the bill passed by the other, it may act on (and possibly amend) that bill, or alternatively, it may consider (and possibly amend) its own bill first—eventually substituting its language into the other chamber's bill for the purposes of resolving differences between the two proposals.[44]

Once one chamber passes a bill, it is engrossed—that is, prepared in official form—and then sent (or messaged) to the other chamber. In a majority of cases, the second chamber simply agrees to the exact text passed by the first chamber, in which case Congress has then completed its action on the bill.

In some cases, the second chamber instead decides to amend the first chamber's bill.[45] The second chamber is often proposing, in effect, an alternative version of the bill, which may differ from the bill in minor or substantial ways. In some circumstances, the alternative may even

[41] See CRS Report 98-384, *Senate Consideration of Treaties*, by Valerie Heitshusen.

[42] See CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki; and CRS Report R46273, *Consideration of Privileged Nominations in the Senate*, by Michael Greene. In specific relation to the November 2013 proceedings by which the Senate lowered the vote threshold for invoking cloture on nominees other than those to the Supreme Court, see CRS Report R43331, *Majority Cloture for Nominations: Implications and the "Nuclear" Proceedings of November 21, 2013*, by Valerie Heitshusen. In relation to the Senate proceedings on April 6, 2017, that lowered the cloture vote threshold on nominees to the U.S. Supreme Court, see CRS Report R44819, *Senate Proceedings Establishing Majority Cloture for Supreme Court Nominations: In Brief*, by Valerie Heitshusen.

[43] For more detail, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki. For a list of CRS reports that focus specifically on procedures for resolving differences between the House and Senate, see https://www.crs.gov/iap/legislative-and-budget-process (select "Resolving Bicameral Differences & Presidential Action" subissue).

[44] Notably, the U.S. Constitution requires that any bill with revenue provisions must be a House bill. Therefore, such a bill must eventually be in the form of a House measure (e.g., H.R.). See CRS Report R46558, *The Origination Clause of the U.S. Constitution: Interpretation and Enforcement*, by James V. Saturno; and CRS Report R46556, *Blue-Slipping: Enforcing the Origination Clause in the House of Representatives*, by James V. Saturno.

[45] See CRS Report 98-812, *Amendments Between the Houses: A Brief Overview*, by Elizabeth Rybicki and James V. Saturno; and CRS Report R41003, *Amendments Between the Houses: Procedural Options and Effects*, by Elizabeth Rybicki.

embody a proposal on a different topic. Once the second chamber agrees to this proposed alternative to the bill, it may send the proposal back to the first chamber for possible consideration and a vote. The receiving chamber may also respond with a counterproposal, and so on. This back-and-forth trading of proposals by the House and Senate is called amendments between the houses (or amendment exchange, or sometimes simply ping-pong). For the bill to have a chance of becoming law, one chamber must eventually agree to the proposal that the other chamber sent it.

Sometimes, the resolution of differences between the House and Senate proposals may instead be accomplished through a conference committee.[46] A conference committee is a temporary committee appointed in relation to a specific bill; its task is to negotiate a proposal that can be agreed to by both chambers. Each conference committee is made up of Members of the House and Members of the Senate—called conferees—who are drawn primarily from the standing committee(s) with jurisdiction over the bill.[47] Through a combination of informal negotiations and formal meetings, the conferees try to hammer out a compromise, drawing on elements of the competing proposals that were adopted by each chamber.[48] If a proposal can garner the support of a majority of the House conferees, and also separately, a majority of the Senate conferees, then the negotiated proposal is embodied in a conference report.[49] This conference report can then be considered in one chamber, and, if agreed to, then considered in the other chamber.[50] Regardless of which chamber goes first, the conference report may be considered under the same procedures used for other business, though it cannot be amended. Reaching a vote on a conference report in the Senate may require a cloture process, and in the House, conference reports are typically considered under a special rule. If the conference report is to become law, both chambers must agree to it.

Presidential Action[51]

Once both chambers of Congress have each agreed to the bill in the same form, it is enrolled[52]—that is, prepared in its final official form and then presented to the President. Beginning at midnight on the closing of the day of presentment, the President has 10 days, excluding Sundays, to sign or veto the bill. If the bill is signed in that 10-day period, it becomes law. If the President

[46] See CRS Report 96-708, *Conference Committee and Related Procedures: An Introduction*, by Elizabeth Rybicki.

[47] See CRS Report RS20227, *House Conferees: Selection*, by Michael Greene; CRS Report RS20219, *House Conferees: Restrictions on Their Authority*, by Richard S. Beth; CRS Report 98-380, *Senate Conferees: Their Selection and Authority*, by Elizabeth Rybicki; and CRS Report RS20209, *Instructing Senate Conferees*, by Michael Greene.

[48] See CRS Report RS22733, *Senate Rules Restricting the Content of Conference Reports*, by Elizabeth Rybicki.

[49] The conference report is also accompanied by a Joint Explanatory Statement (sometimes called simple a "statement of managers") that is printed with the conference report in the Congressional Record; it explains individual provisions of the conference report in relation to the provisions in the House and Senate policy alternatives that were committee to the conference committee for negotiation. See CRS Report 98-382, *Conference Reports and Joint Explanatory Statements*, by Christopher M. Davis.

[50] See CRS Report 98-736, *Floor Consideration of Conference Reports in the House*, by James V. Saturno; and CRS Report 98-737, *Floor Consideration of Conference Reports in the Senate*, by James V. Saturno and Elizabeth Rybicki.

[51] For more detail, see CRS Report RS22188, *Regular Vetoes and Pocket Vetoes: In Brief*, by Meghan M. Stuessy; and CRS Infographic IG10007, *Presentation of Legislation and the Veto Process*, by Meghan M. Stuessy.

[52] See CRS Report RL34480, *Enrollment of Legislation: Relevant Congressional Procedures*, by Valerie Heitshusen.

declines to either sign or veto it—that is, he does not act on it in any way—then it becomes law without his signature (except when Congress has adjourned under certain circumstances).[53]

If the President vetoes the bill, it is returned to the congressional chamber in which it originated; that chamber may attempt to override the President's veto, though a successful override vote requires the support of two-thirds of those voting.[54] If the vote is successful, the other chamber then decides whether to attempt its own override vote; here, as well, a successful override vote requires two-thirds of voting Members to agree. Only if both chambers vote to override does the bill become law notwithstanding the President's veto; successful overrides of a veto are rare.

Bills that are ultimately enacted are delivered to the Office of the Federal Register at the National Archives, assigned a public law number, and included in the next edition of the United States Statutes at Large.[55]

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[53] If the President declines to either sign or veto a bill, it would only become law if Congress has adjourned during the 10-day period after which a measure has been presented to this President (thereby precluded the measure's return to Congress). This is termed a "pocket veto"; see CRS Report RS22188, *Regular Vetoes and Pocket Vetoes: In Brief*, by Meghan M. Stuessy.

[54] See CRS Report RS22654, *Veto Override Procedure in the House and Senate*, by Elizabeth Rybicki.

[55] See CRS Report R45190, *From Slip Law to United States Code: A Guide to Federal Statutes for Congressional Staff*, by Eva M. Tarnay.