

The POLITICO Pro

ESSENTIAL

GUIDE TO

LEGISLATION

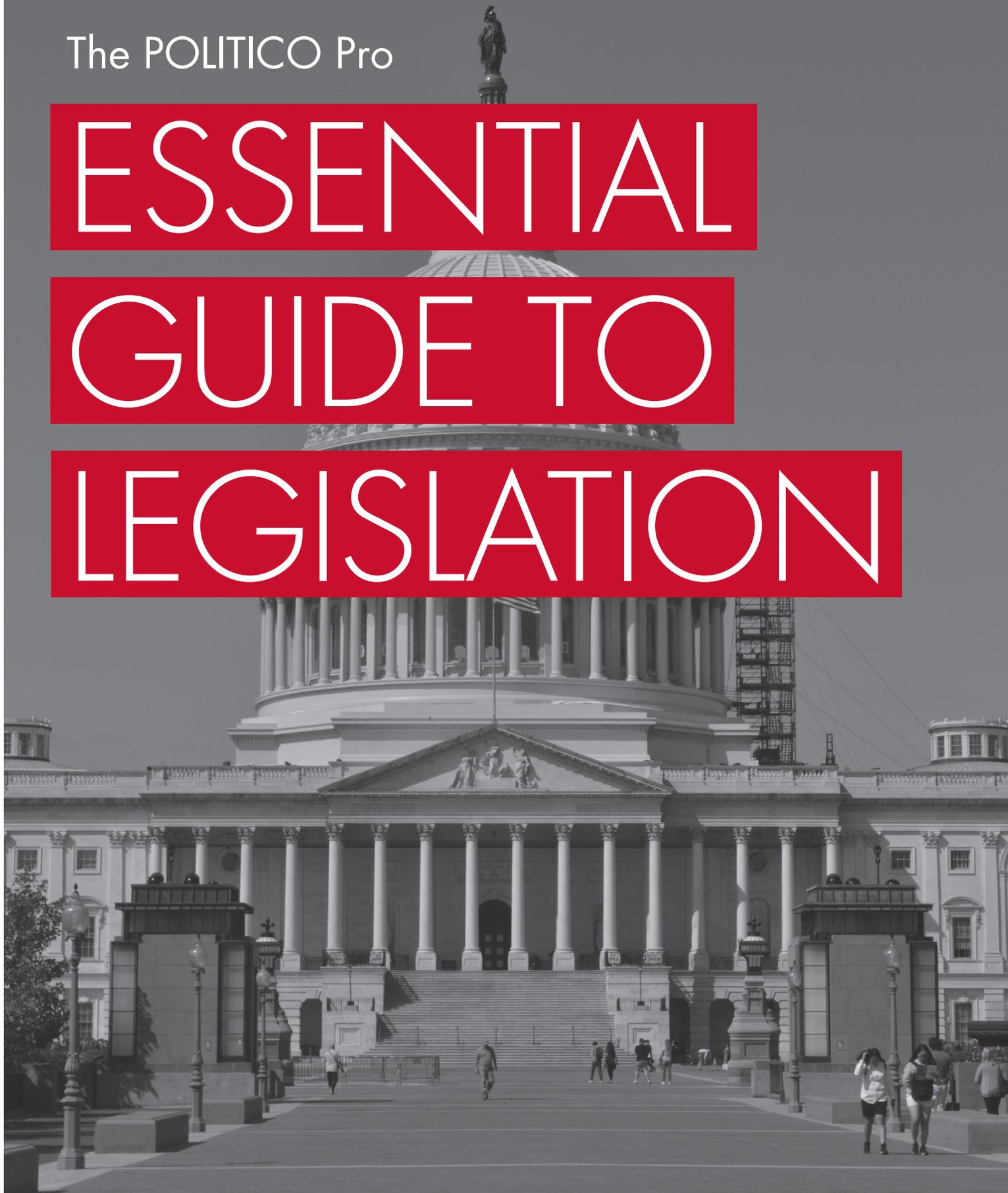


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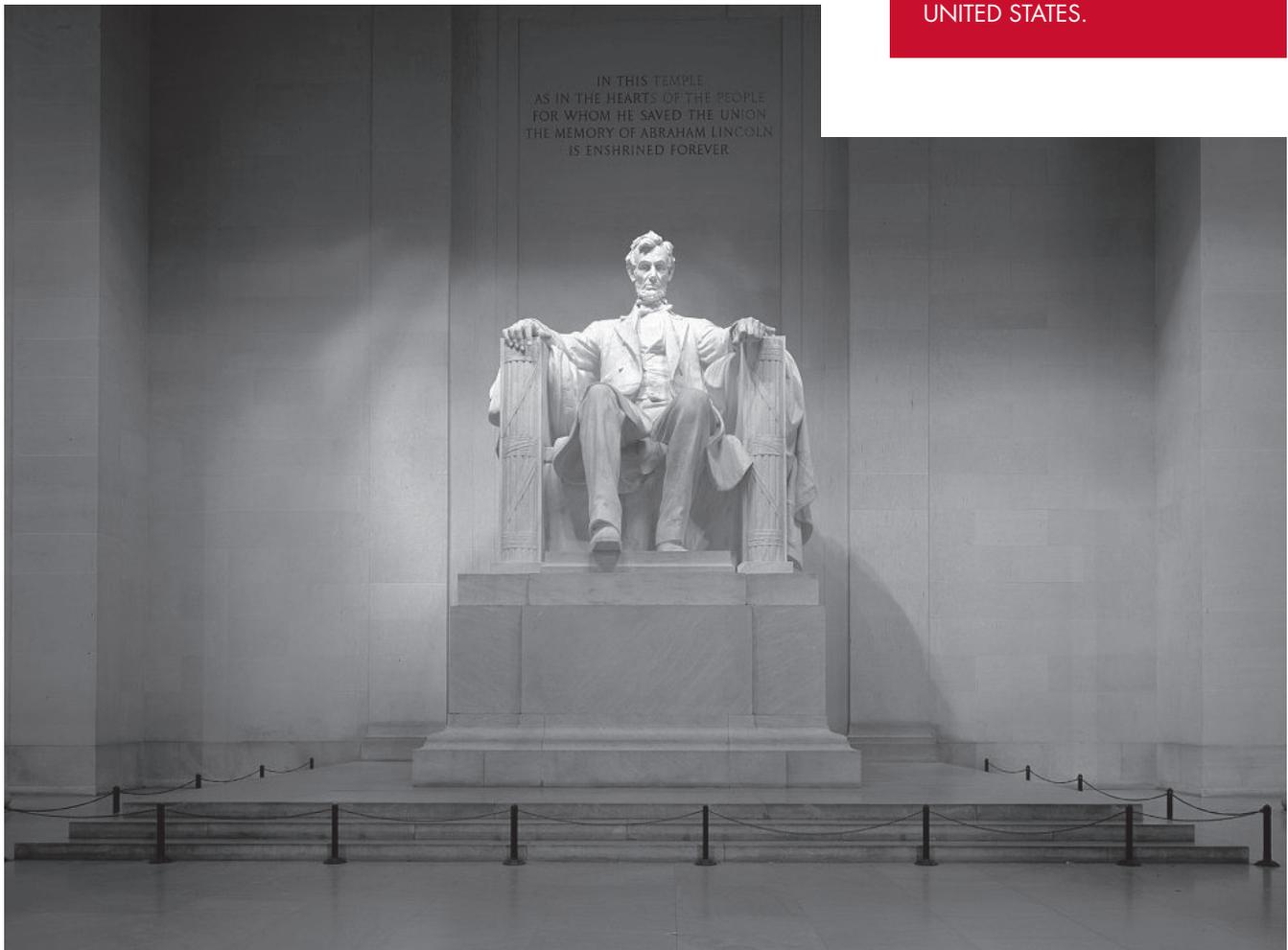
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INTRODUCTION

During a single Congress, hundreds of bills are enacted into federal law - but the initial legislation proposed by lawmakers in the House and Senate can number well over 10,000 bills per session of Congress. With so much proposed legislation flowing through the standard processes, tracking can quickly become difficult.

This guide breaks down each step of the legislation proposal process in the House and Senate, the steps that can result in changes to legislation before it becomes law, as well as how the two houses resolve legislative differences. A key difference in the legislative process between the two chambers is that majority leadership wields more legislative power in the House than in the Senate, where individual senators have more control throughout the process, especially on the floor.

ONLY A MEMBER OF CONGRESS CAN INTRODUCE A BILL. BUT LEGISLATION OFTEN ORIGINATES OUTSIDE THE HALLS OF CONGRESS. MEMBERS RECEIVE PROPOSED DRAFTS OF BILLS FROM CONSTITUENTS, ACADEMICS, SPECIAL INTEREST GROUPS, LOBBYISTS, STATE LEGISLATURES, EXECUTIVE BRANCH DEPARTMENTS, FEDERAL AGENCIES AND THE PRESIDENT OF THE UNITED STATES.



HOW LEGISLATION IS PASSED IN THE HOUSE OF REPRESENTATIVES

The House has 435 members, which are allocated to the states based on the census population. Members represent congressional districts within their respective states. Members of the House serve a two-year term.

1 INTRODUCING LEGISLATION



Any of the 435 members, as well as any non-voting members, can introduce a bill by signing and placing it in the “hopper,” a wooden inbox on the side of the rostrum in the House Chamber.

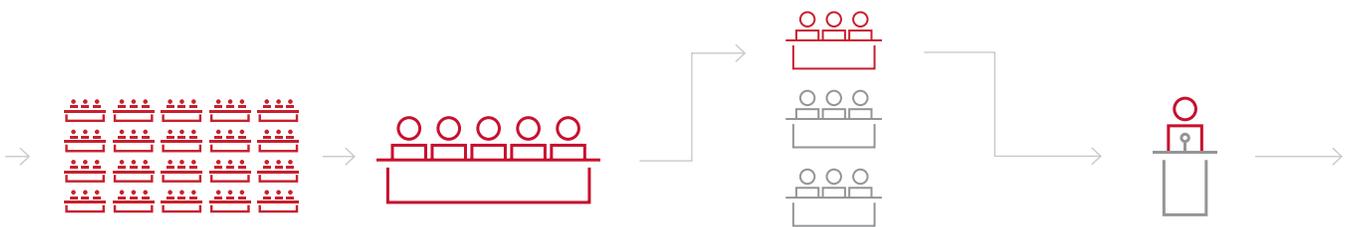
The member who introduces the bill is the “primary sponsor,” and an unlimited number of his or her peers may co-sponsor before and after it is introduced. The title is entered in the Journal and printed in the Congressional Record.

The House clerk assigns the bill a number. The Speaker then refers the bill to the appropriate committee(s).

Printed and electronic versions of the bill are made available to the public.

ALL REVENUE-RAISING LEGISLATION MUST ORIGINATE IN THE HOUSE.

2 COMMITTEE WORK



A bill can be referred to any of the 20 standing committees. Each committee has jurisdiction over specific policy areas.

The Speaker must designate a primary committee of jurisdiction on bills referred to multiple committees.

Most committees then refer the bill to its appropriate subcommittee, unless the full committee votes to retain the measure at the full committee.

One of the first actions taken is to seek input from relevant departments or agencies. For major bills, public hearings may be held to solicit feedback from public officials, industry leaders or other experts.

A PUBLIC BILL, WHICH PERTAINS TO MATTERS THAT AFFECT THE GENERAL PUBLIC OR CLASSES OF CITIZENS, IS THE MOST COMMON TYPE OF LEGISLATION THAT ORIGINATES IN THE HOUSE.

At this stage, subject matter experts and members can alter and change legislation dramatically from its original state.

3 MARKUP SESSION



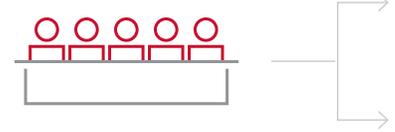
The formal process to advancing legislation is through a markup session, where the subcommittee studies the feedback received at the public hearing. Committee members use this input to offer amendments that can later be added to the bill. The committee votes to accept or reject its proposed amendments.

4 MARKUP VOTE



Prior to forwarding the bill to the full committee, the subcommittee votes on how to report the bill to the full committee: favorably (with or without amendments), unfavorably or without a recommendation (which is rarely done).

5 FINAL COMMITTEE ACTION



The full committee often holds its own markup. If the full committee approves numerous amendments, it has two options to streamline the process for a House vote.



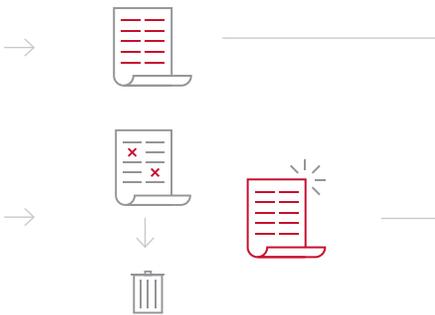
This is a common stage at which bills are killed by getting tabled, never to resurface.

In the 114th Congress, 84% of measures introduced died in committee.

Only about 3% became public law.

www.congress.gov

5 FINAL COMMITTEE ACTION CONT.



1) It can report the original bill — same title and number — with “one amendment in the nature of a substitute” that strikes out the text of the bill and replaces it with entirely new text.

Or, 2) The full committee may decide that the amendments were too extensive and it submits an entirely new bill, which incorporates all of the approved changes. This is known as a “clean bill,” which will have a new number, while the old bill is discarded.

6 COMMITTEE ACTION TO REPORT A BILL



If the committee votes to report the bill to the chamber, a committee report is written. This report describes the purpose and scope of the measure and the reasons for recommending approval. House Report numbers are prefixed with “H.Rpt.” and then a number indicating the Congress (currently 115).



The report details what each section of the bill intends to accomplish, includes oversight findings, offers a cost estimate from CBO and may include dissenting opinions from committee members. In general, once the report is made by the committee, the measure is ready for consideration by the full House.

7 SCHEDULING FLOOR ACTION



Once a bill is reported back to the chamber, it is placed in chronological order on one of two principal legislative calendars. All revenue-related bills must be placed on the Union calendar; all other public bills are placed on the House calendar.

The Union Calendar is used in the House for bills that deal specifically with money issues.

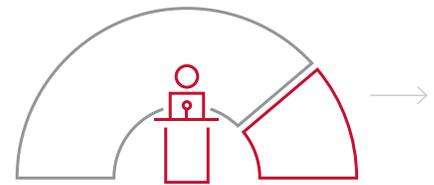
Bills do not usually come to the floor in this order — some bills never reach the floor at all. The Speaker and Majority Leader decide what will reach the floor and when.

8 PROCEDURAL RULES ADOPTED



Before the bill makes it to the floor for discussion, the Rules Committee formulates rules that govern procedures for how the bill will be considered, such as how much time will be allowed for debate and whether amendments can be offered. But rules are routinely bypassed. Most often, leadership schedules bills for streamlined consideration with a motion to “suspend the rules,” which limits debate to 40 minutes, prohibits floor amendments and requires a two-thirds majority vote for approval.

9 GENERAL DEBATE OPENS ON THE FLOOR

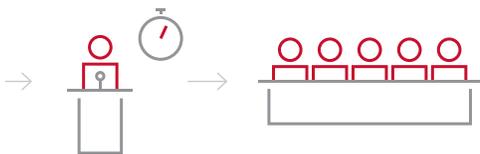


All bills on the Union calendar must be considered in the “Committee of the Whole,” which includes all members, but only needs a quorum of 100. The floor is open for general debate to discuss the bill and other possible amendments. Debate time, limited to about an hour, is split equally between parties. This process expedites the passage of legislation, as it does not adhere to all of the formal rules of a House session.

SINCE THE 105TH CONGRESS (THE LAST 20 YEARS), THE AVERAGE NUMBER OF MEASURES INTRODUCED THAT BECAME PUBLIC LAW HAS BEEN ABOUT TWO PERCENT.

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10 AMENDING PROCESS



The Reading Clerk then reads the bill considered for amendment. The “second reading” is done section by section. A member must propose an amendment as the respective section title is announced. The member is allowed five minutes to argue the germaneness* of the amendment; the same amount of time is given to the first recognized opposing member. This is known as the “five-minute rule,” which prevents filibuster-like tactics.

*Germaneness: The requirement that an amendment be closely related—in terms of the precise subject or purpose, for example—to the text it proposes to amend. House rules require amendments to be germane; Senate rules apply this restriction only in limited circumstances.

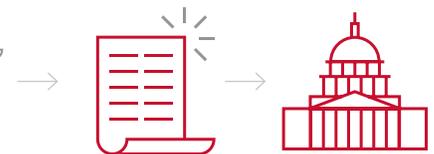
Source: Legislative Glossary, congress.gov



The Committee of the Whole votes on the amendments. Like standing committees, it does not actually amend the bill. The Committee of the Whole only votes to recommend to the House the amendments it has adopted.

When debate concludes, the Committee of the Whole “rises” and passes the bill back to the House for final adoption. In rising, the Committee of the Whole reverts back to the House. The House then acts on the bill and any amendments adopted by the Committee of the Whole.

11 FINAL PASSAGE



The House proceeds to vote on each amendment the committee adopted. An official version of the final bill is then drafted (engrossed), which includes the text as amended by floor action. The House can vote to “recommit the bill” to committee, which provides a final chance for the House to again debate or amend the measure. If the attempt to recommit fails, the Speaker orders the vote on final passage. If the bill is approved, it is then sent to the Senate for consideration and approval.

HOW LEGISLATION IS PASSED IN THE SENATE

The Senate has 100 members, with two senators representing each state. Senators serve six-year terms. The Senate has several unique powers, including the confirmation of Cabinet secretaries, federal judges, ambassadors and Supreme Court justices.

1 INTRODUCING LEGISLATION



Any senator may introduce a bill by submitting it to the clerks on the Senate floor. Senators may also introduce the bill more formally from the floor, usually delivering a short speech about the legislation. If no objection is heard, the bill is considered to be read twice.

Senate custom allows an unlimited number of senators to co-sponsor. The bill is entered on the Senate Journal and given a number by the clerks.

The bill is also entered into ledgers and is reprinted immediately.

Copies of the bill are made available in the document rooms of the Senate and House. The current political climate has made this step much more difficult to track. Politicians, the press and the public are often searching for bill text (in vain) to understand what is really in a given piece of legislation.

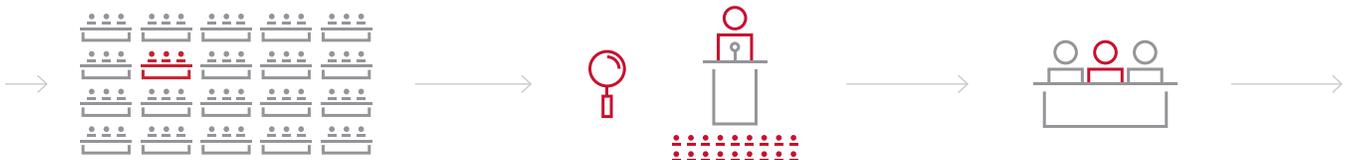
The parliamentarian* refers the bill to a standing committee. Almost always, the bill is sent to whichever committee has jurisdiction over the dominant issue in the measure. A bill may only be referred to more than one committee by special or standing order.

*Parliamentarians: Nonpartisan staff officials (one in each chamber, assisted by deputies and assistants) who provide expert advice and assistance to the presiding officer and to members on the application and interpretation of chamber rules, precedents, and practices (including referral of measures to committee).

Source: Legislative Glossary, congress.gov

ONLY THE SENATE CAN CONFIRM PRESIDENTIAL NOMINATIONS AND APPROVE TREATIES. INDIVIDUAL SENATORS ALSO HOLD MORE LEGISLATIVE POWER THAN THEIR HOUSE COLLEAGUES, ESPECIALLY ONCE A BILL MAKES IT TO THE FLOOR.

2 COMMITTEE WORK



The committee can take up the bill. Most commonly, the committee will refer the legislation to one of its subcommittees, unless the full committee votes to retain the measure.

One of the first actions taken is to seek input from relevant departments or federal agencies. For major bills, public hearings may be held to solicit feedback from public officials, industry leaders or other experts. The chair determines the hearing's agenda and select witnesses.

The chair allows the minority party to call their own witnesses on at least one day of the hearing. Each committee determines the order in which senators ask questions. While rules do not restrict the amount of time a witness may be questioned, several committees have adopted such rules.

3 MARKUP SESSION



The markup determines whether the measure pending before a committee will be recommended to the full Senate and whether it should be amended in any substantive way.

4 MARKUP VOTE



Prior to forwarding the bill to the full committee, the subcommittee will vote on how to report the bill: favorably (with or without amendments), unfavorably or without a recommendation (which is rarely done).

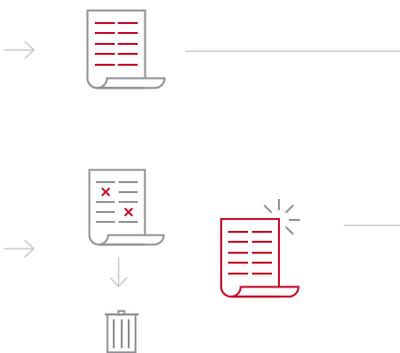
 If the (sub)committee votes to not report the bill to the Senate, the bill dies.

5 FINAL MARKUP



The full committee often holds its own markup. If numerous amendments were drafted, the committee has two options to streamline the process for a floor vote.

5 FINAL MARKUP CONT.



1) It can report the original bill — same title and number — with “one amendment in the nature of a substitute” that strikes out the text of the bill and replaces it with entirely new text.

Or, 2) If substantial amendments were made, the committee can introduce an entirely new bill, which incorporates all of the proposed amendments. This is known as a “clean bill,” which will have a new number. The old bill is discarded.

6 COMMITTEE ACTION TO REPORT A BILL



The full committee then votes on whether or not to report the bill to the full Senate. If it votes yes, a committee report is written. This report describes the purpose and scope of the measure. Senate Report numbers are prefixed with “S.Rpt.” and numbers identify the Congress (i.e. 115) and report (i.e. 351).

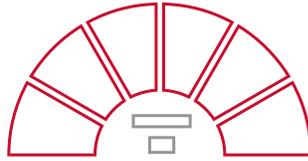
The report includes oversight findings, a statement of regulatory effect, specific changes the bill would make to existing law, a cost estimate from CBO and may include dissenting opinions from committee members. In general, once the report is made by the committee, the measure is ready for consideration by the full Senate.

7 PLACED ON CALENDAR



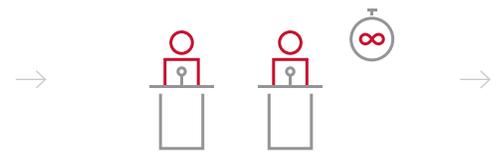
The committee chair or a designee immediately reports the bill back to the Senate. All bills are placed on the Calendar of Business. There is also an executive calendar for treaties and nominations. Scheduling legislation is the job of the majority leader. Bills can be brought to the floor whenever a majority of the Senate chooses, but the report must typically be available for at least two days prior to consideration.

8 LAY THE BILL BEFORE THE SENATE



A bill is brought to the floor via two methods. Most often, the majority leader asks for unanimous consent to take up a bill. If no senator objects, the Senate can begin consideration of the bill. If the majority leader doesn't expect unanimous consent, he or she will move to proceed to consider a bill. The motion is subject to debate and potentially filibuster. If the motion eventually passes, the Senate can then begin consideration of the bill and any amendments.

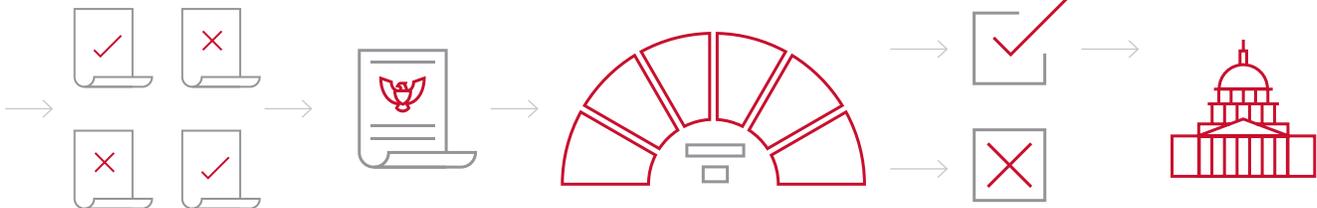
9 UNLIMITED DEBATE



The floor is open for debate and amendments are submitted or proposed. Members can speak as long as they want and amendments need not be germane — riders are often offered. Entire bills can therefore be offered as amendments to other bills.

Debate can only be stopped by invoking cloture, which requires 60 votes for legislation. This process is used to stop the filibuster, a tactic used to defeat a measure by "talking it to death."

10 AMENDING PROCESS 11 ROLL CALL



The first amendments usually considered are those recommended by the reporting committee. Once these are settled, senators can offer amendments to any part of the measure in any order. The Senate votes for each amendment. Amendments that are tabled are defeated.

The amending process continues until the Senate orders an official final version of the bill be written and read a third time, which stops further amendment.

The Senate then votes on final passage. If the bill passes, it is then sent to the House for consideration and approval, unless the House has already approved a similar or identical bill.

IF THE HOUSE AND SENATE PASS THE SAME BILL, THEN IT IS SENT TO THE PRESIDENT. IF THE HOUSE AND SENATE PASS DIFFERENT VERSIONS OF THE SAME BILL, THEY ARE SENT TO CONFERENCE COMMITTEE. MOST MAJOR LEGISLATION GOES TO A CONFERENCE COMMITTEE.

ONE OF THE MOST "UNPRODUCTIVE" CONGRESSES BY HISTORICAL STANDARD, THE 113TH CONGRESS ENACTED ONLY 296 LAWS.

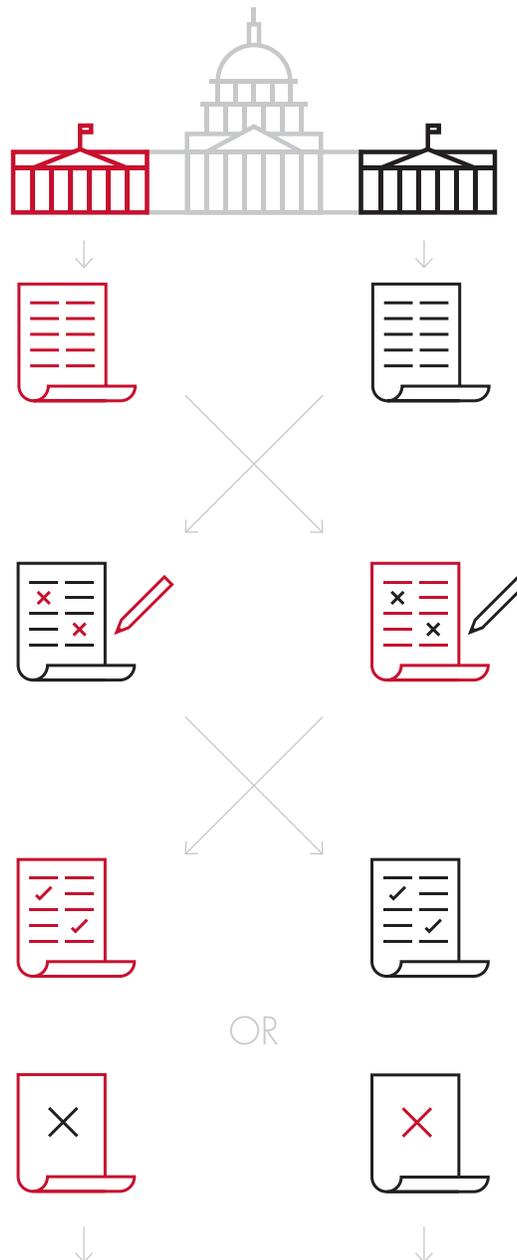
DAILY SIGNAL.COM/2014/12/30/TURNS-113TH-CONGRESS-WASNT-LEAST-PRODUCTIVE

HOW THE HOUSE AND SENATE SETTLE LEGISLATIVE DIFFERENCES

Each chamber must approve the same bill before it can be sent to the president. In a majority of cases, the second chamber simply approves the one approved by the first, and it is presented to the president for signature. If there are differences, there are two options for compromise. Historically, most major bills are resolved in conference committee, though the two chambers may also exchange amendments, or both. For example, they might agree to immediately go to conference and then resolve any remaining differences with an amendment exchange. Or they may first attempt to exchange amendments and then decide to go to conference.

TO EXPEDITE THE AMENDMENT EXCHANGE PROCESS,

a senator and a representative will initially introduce identical or similar versions of a bill in each chamber. If one passes, the other chamber could act on that bill, but usually considers its own first and then acts on the other, substituting its preferred language into the other chamber's version and sending it back.

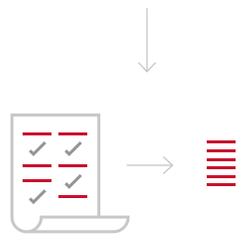
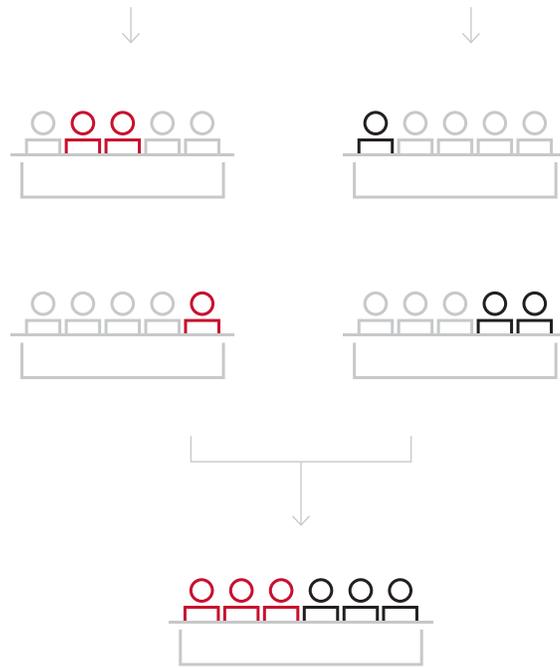


THE CHAMBERS KEEP SENDING IT BACK AND FORTH —

called “amendments between the houses,” or “amendment exchange,” or “pingpong” — until one chamber ultimately approves the other’s version. Each chamber may only amend the other’s amendments once.

IF THE CHAMBERS DON'T APPROVE THE OTHER'S AMENDMENTS, A CONFERENCE COMMITTEE IS ASSEMBLED.

Conferees are appointed from committees in each chamber with jurisdiction over the bill, usually seven to 11 conferees each, or more in the case of appropriations or budget reconciliation measures. Conferees will begin informal negotiations and formal meetings to come to a compromise between the differing proposals.

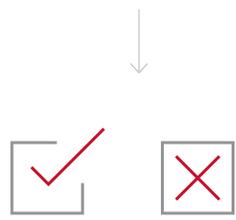


THE COMMITTEE MAY NOT ADD NEW LINE ITEMS OR REMOVE ANYTHING THAT BOTH CHAMBERS HAVE ALREADY APPROVED.

It may only address sections that one chamber has approved, but the other has not.

THE COMMITTEE CAN SUGGEST THAT THE HOUSE OR SENATE RECEDE FROM SOME OR ALL AMENDMENTS.

If no agreement is reached, which rarely happens, the chambers can initiate an amendment exchange — if they haven't already done so.

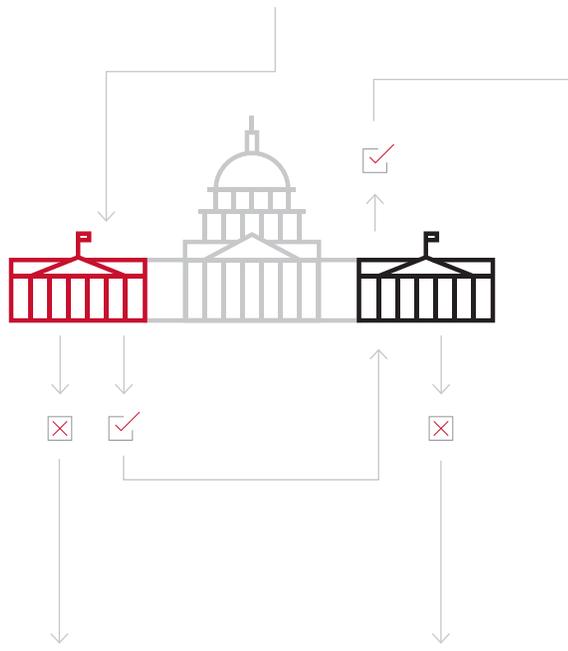


IF THE COMMITTEE DETERMINES ITS SOLUTION WILL DRAW MAJORITY SUPPORT IN EACH CHAMBER,

it will write out the proposal in a conference report, including a section-by-section explanation of the agreement, that must be signed by a majority of Senate and House conferees.

THE CONFERENCE REPORT IS THEN TAKEN UP FOR A VOTE IN ONE CHAMBER.

It may be considered under each chamber's regular legislative procedure, but may not be amended. If it passes, it is sent to the other chamber for approval.



IF NEITHER CHAMBER MAKES CHANGES TO THE REPORT,
it is sent to the president.

SENATE PROCEDURE ALLOWS STRIKING OUT

portions that are considered under its rules to be "out of scope material" or "new directed spending provisions."

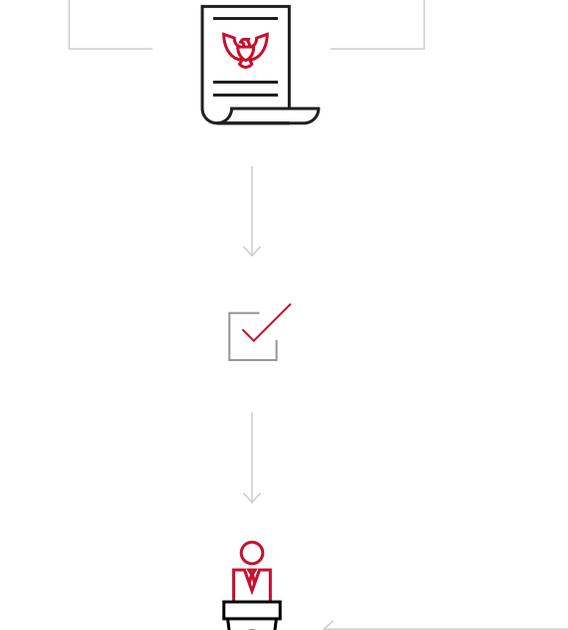


HOUSE PROCEDURE ALLOWS REJECTING PROVISIONS

that would not have been germane to the bill had they originated in the House.

IF THE CONFERENCE REPORT PASSES IN BOTH CHAMBERS,

but excludes some portions according to those rules, the House or Senate can dispose of any remaining amendments where there is not agreement so that both texts are identical.



IT IS THEN SENT TO THE PRESIDENT FOR SIGNATURE.

Sources: U.S. House of Representatives, U.S. Senate, Congressional Research Service

Additional reporting by POLITICO Pro DataPoint