Tips: Understanding the Legislative Process in Detail

This guide is aimed at giving a detailed step-by-step description of the legislative process. For this guide, all the specific terminology used comes from the U.S. Congress. A majority of state legislatures use these same terms, however others use different terms for all or some of these steps in the process. Ultimately though, no matter the language used, the basis of the legislative process is always the same.

To locate information on all introduced legislation at the federal level you will want to access the Legislative Information System (LIS) and for access to state legislation, you can start here and then select the state you want. Once selected you will be taken to the state legislature’s website, where you can look up the legislation.

Step 1 - Introduction of Legislation and Referral to Committee

**Bills.** Most legislation introduced by a Member of Congress (i.e., the legislation’s sponsor) is introduced as a “bill,” the general form used for legislation that will have the force of law if enacted. Bills are numbered sequentially in the order they were introduced. Bills introduced in the Senate are preceded by “S.”; those in the House by “H.R.” Bills remain pending from the time of introduction until final passage or the final adjournment of a Congress (i.e., the numbered two-year convocation of the House and Senate that begins January 3 following each biennial federal election). Bills not enacted during a Congress “die”; further legislative consideration requires that they be reintroduced in the next Congress.

**Joint Resolutions.** While bills are used for purposes of general legislation, joint resolutions (S.J. Res. or H.J. Res.) are used to propose constitutional amendments and for a variety of special or subordinate purposes, such as continuing appropriations. Except for those proposing constitutional amendments, joint resolutions become law in the same manner as bills.

Once introduced, legislation is referred to the committee (or committees) in that chamber with jurisdiction over its elements.
Step – 2 Committee Referral

Introduced legislation is usually referred to a committee, according to its subject matter. The committee’s chairperson then has the primary authority for deciding if the bill will receive formal committee attention during the course of the two-year Congress. However, in some cases committees may claim jurisdiction to a piece of legislation and initiate legislative action on their own.

After referral to a full committee the legislation can be further referred to one of its subcommittees. However, committees are not required to refer all legislation to its various subcommittees. Subcommittees are a subdivision of the full committee that is formed by the committees to share specific tasks within the jurisdiction of the full committee. A subcommittee is then responsible to work within the guidelines established by their parent committee.

Step – 3 Committee/Subcommittee Hearings

If a committee or subcommittee decide to take action on a piece of legislation or issue a hearing is normally the first formal action. A hearing 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 or state 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, witnesses provide short oral remarks to the assembled committee, but each witness may also submit a longer written version of his or her statement on the matter. After witnesses’ oral statements, members of the committee take turns asking questions of the witnesses.

Committee hearings are commonly broadcast via webcast from the Committee’s or within an individual state legislature’s website. Not all state legislatures broadcast hearings on the internet.

Step 4 – Mark Up

A committee markup is the key formal step a committee ultimately takes for the bill to advance to the floor. At this meeting, members of the committee consider possible changes to the
proposed legislation by offering and voting on amendments to it, including the possibility of a complete substitute for its text.

A markup is completed when the committee agrees, by majority vote, to report the bill to the full chamber for consideration. If the markup was held by a subcommittee, it is also completed by a majority vote and to report the bill to the full committee, at which time the full Committee may conduct a second markup.

Committees rarely hold a markup unless the legislation under consideration is expected to receive majority support on that vote. The committee can vote to report a referred bill, with recommended changes that reflect any amendments adopted during the markup. As an 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.

At the state level, there are many other terms used in the place of mark up, such as executive session or business session. However, they are still conducted in a similar fashion.

**Step 5 – Committee Report**

Most legislation never proceeds through full committee consideration and remains held in committee for the remainder of a legislative session. However, when committees, by majority vote, report a bill or resolution for consideration by the entire chamber, it may be accompanied by a committee report. The House of Representatives require a written report on all legislation reported out of committee. The U.S. Senate does not require committee reports, but many still produce them. At the state level this requirement varies.

When available, committee reports can be particularly useful documents for legislative history research because they often describe the purpose of the legislation and summarize or explain specific provisions. The report will also give details on the committee’s actions, understandings, and conclusions about the legislation. Changes to existing laws, votes on amendments during markups, and subcommittee information are supplemental material to the committee report that may also be useful for legislative history research. If the legislation was considered by a subcommittee, that information may also be covered in the full committee’s report.

At the federal level, committee reports are identified as House Report (H. Rept. or H. Rep.) or Senate Report (S. Rept. or S. Rep.) and given a number (e.g., S. Rept. 107-31 is the 31st report to the Senate in the 107th Congress).
Step 6 - Floor Consideration

Once a committee has reported a bill, it is placed on one of the respective chamber’s calendars. 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.

U.S. House of Representatives Floor Consideration

The House considers bills under a variety of procedures. Most bills are considered under “suspension of the rules” 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 it requires two-thirds of members voting to agree.

Bills not considered on the House floor under suspension of the rules are instead considered under a “rule” tailored for each particular bill. The House establishes these rules on a case-by-case basis through the adoption of a simple House resolution (an H. Res.) called a special rule.

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. Typical provisions found in a special rule include a specified period for general debate and limits on the number of amendments that can be offered on the floor. Other special rules allow only specific predetermined amendments to be offered, or even prohibit any amendments from being offered on the floor.

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 and then votes on adopting the rule. Only after its adoption will the House then proceed to consider the bill itself, under the terms specified by the special rule. The House will then consider the bill in the Committee of the Whole, which allows Members to consider and vote on amendments. After any amendments are offered and debated, Members vote on approval.
After the amendment process is complete, the Committee of the Whole reports to the full House any amendments that were approved. The final step in the House is voting on final passage where some votes are taken by voice, with most votes being taken by electronic device, a method that records the individual position of each Member who voted.

**Senate Floor Consideration**

Floor procedures in the Senate differ greatly from the House. In order to consider a bill on the floor, the Senate first must agree to bring it up by agreeing to a unanimous consent request or by voting to adopt a motion to proceed to the bill. Only after the Senate has agreed to consider a bill may Senators propose amendments to it.

After a motion to proceed has been approved for a bill, each amendment and 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, or other motions, in effect, insisting on extended debate or taking other actions intended to delay or prevent a final vote.

In order to cut-off debate, the cloture rule is used, which requires a supermajority of 60 members to limit debate on the bill, amendment, or motion under consideration. Two days of session after the cloture motion is filed, Senators vote on the cloture. If 60 Senators agree, then further consideration of the bill is limited to 30 hours, during which only relevant amendments submitted in advance can be offered. After this concluding 30 hour period of consideration, the Senate will take a vote on final passage of the bill, which only needs a simple majority to be approved.

**Step 7 – Resolving Differences between the Chambers (Conference)**

Once one chamber passes a bill, it is engrossed. That means it is prepared in official form and then sent 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 and sends to the President, or in the case of states, its Governor for signature into law.

Sometimes the second chamber decides to amend the first chamber’s bill. This means the second chamber is creating an alternative version of the bill, which may differ from the original bill in minor or substantial ways. In some circumstances, the alternative may change the bill to a
completely 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 known simply ping-ponging the bill. For the bill to have a chance of becoming law, one chamber must eventually agree to the proposal that the other chamber sent it.

However, these differences can also be settled through a conference committee. A conference committee is a temporary committee appointed in relation to a specific bill. Each conference committee is made up of Members of the House and Members of the Senate, called conferees. The conferees are selected primarily from the standing committee(s) with jurisdiction over the bill.

The conference is tasked with negotiating a compromised version of the bill that can be agreed to by both chambers. 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. 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 put into a conference report. Regardless of which chamber considers the conference report first, the conference report cannot be amended. If it is agreed to in both chambers it is sent to the President to become law.

**Step 8 – Presidential Action**

Once both chambers of Congress have each agreed to the bill in the same form and is enrolled, the bill is 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 declines to either sign or veto it then it becomes law without his signature after this 10-day period.

If the President vetoes the bill, it is returned to the congressional chamber in which it originated. That chamber may then attempt to override the President’s veto. To override the veto the support of two-thirds of each chamber is needed. If the override votes are successful in both chambers the bill become law. Successful overrides of a veto are rare occurrences.
Bills that are enacted into are assigned a public law number, and included in the next edition of the United States Statutes at Large. In the case of a state it would be included in the next edition of state codes or statutes.