



# CONGRESS

## THE PEOPLE'S BRANCH



### OUTLINE

**T**he United States Congress is one of the world's greatest democratic institutions. Members fight hard on behalf of their states and districts, are free to introduce any legislation they wish, even if there is no chance of passage, have seemingly endless opportunities to voice their opinions on the issues of the day, and provide a constant stream of information back home.

This openness also makes Congress one of the world's most frustrating institutions. Senators are free to talk as long as they can stand; committee chairs can delay legislation for months and years; very few proposals ever receive a hearing, let alone a final vote, and the competition among members for media attention can make Congress look more like a three-ring circus than a deliberative body.

The tension between representation and action has existed from the very first Congress in 1789. Because Congress is divided into two houses, each with its own calendar, rules, and electoral base, action requires broad agreements both within and across the institution as a whole. As a result, members of Congress often agree to disagree about major legislation, even when the public wants action.

Frustration has a purpose in the constitutional system. It forces majorities to make their case to the entire nation, not just to their passionate supporters, and gives opponents an opportunity to fight legislation they believe is wrong.

There is growing evidence, however, that Congress has become less able to reach consensus over the past half century as moderate Democrats and Republicans have been steadily replaced with more ideological members of their parties.<sup>1</sup> The trend is likely to continue in the future. In 2004, for example, five moderate Southern Democrats retired—

- CONGRESSIONAL ELECTIONS
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- MAKING CONGRESS WORK
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- AN ASSESSMENT OF CONGRESS

## TIME LINE

### CONGRESS

<b>1811</b>	Elbridge Gerry is immortalized by his salamander-shaped reapportionment plan—the “gerrymander”
<b>1870</b>	Hiram Revels is elected as the first African American senator
<b>1890</b>	Insurgent Republicans join Democrats to defeat Speaker of the House Thomas Reed
<b>1913</b>	Seventeenth Amendment provides for direct election of senators
<b>1917</b>	Senate rules changed to permit cloture; previously, a filibuster could only be terminated if every member agreed
<b>1954</b>	Lyndon Johnson becomes one of the all-time most powerful Senate Majority Leaders
<b>1974</b>	In reaction to the Watergate scandal, voters elect large majorities of liberal Democrats to Congress
<b>1994</b>	Democrats lose control over the House of Representatives after being in the majority for over 30 years
<b>2003</b>	After serving in the Senate for 48 years, Strom Thurmond retires at age 100

John Breaux of Louisiana, John Edwards of North Carolina, Bob Graham of Florida, Ernest Hollings of South Carolina, and Zell Miller of Georgia. All five were replaced by much more conservative Republicans. The victories left just four of the south's 26 seats still in Democratic hands, two of which are at the fringe of the south in Arkansas. In 1970, Republicans held just seven of the 26.

The loss of moderate Democrats and Republicans increases the odds that Congress will be less able to act. Moderates are often key to finding compromises across the party lines, and frequently soften the intense arguments that arise between more ideological members of Congress. Thus, Breaux often joined with other moderates in both parties to find compromises on issues such as the Bush Administration's 2001 tax cut and the more recent legislation giving prescription drug coverage to senior citizens in 2003, while Miller and Hollings often provided needed votes for compromise on issues such as education reform and homeland security.

Congress can still pass legislation with sharp divisions between the two parties, as it did with the prescription drug bill in 2003. But the votes on such legislation are often close, and can involve intense conflict. The prescription bill only passed on a razor-thin 220 to 215 vote in the House and a 55 to 44 margin in the Senate.

In this chapter, we examine how Congress organizes itself to make laws and represent the people. We also look at how the framers designed the institution to work. We will ask how Congress can remain open and accessible, yet still make the deals needed to pass important legislation in the national interest. Before turning to these questions, however, it is first important to ask how members of Congress are elected to office and to consider the ways in which congressional elections often act to insulate individual members from their own constituents.

## CONGRESSIONAL ELECTIONS

There is only one Congress described in the Constitution, but there are two very different electoral calendars for entering office. Each of the 435 members of the House of Representatives is elected to a two-year term in even-numbered years, while only a third of the Senate's 100 members are chosen for six-year terms every two years. The number of House members was finally capped at 435 when Congress ordered states to stop drawing new districts in 1910.

There are also somewhat different requirements for becoming members of the House and Senate. At minimum, members of the House must be 25 years old and have been citizens for seven years, whereas senators must be 30 years old and have been citizens for nine years. House and Senate candidates must be residents of the states from which they are elected.

By setting the Senate's requirements higher and giving its members a six-year term, the framers hoped the Senate would act as a check against what they saw as the less predictable House. Concerned about the “fickleness and passion” of the House of Representatives, James Madison in particular saw the Senate as “a necessary fence against this danger.”<sup>2</sup>

The framers did not limit the number of terms a House member or senator could serve. The term limits imposed by the Articles of Confederation had forced several talented members out of office, leaving the Continental Congress less effective and souring the framers on the idea.<sup>3</sup>

Regardless of differences between the two houses of Congress, representatives and senators are all politicians who enter office by winning an election. Ironically, it is often good politics for them to deny that they are politicians and to lead the charge against the institution in which they serve. The willingness of “House members to stand and defend their own votes or voting record contrasts sharply with their disposition to run and hide when a defense of Congress might be called for,” writes political scientist Richard F. Fenno Jr. “Members of Congress run *for* Congress by running *against* Congress. The



strategy is ubiquitous, addictive, cost-free, and foolproof. . . . In the short run, everybody plays and nearly everybody wins. Yet the institution bleeds from 435 separate cuts.”<sup>4</sup>

## Who Elects the Congress?

Members of the House and Senate represent different populations. According to the Constitution, every state has two U.S. senators, each of whom represents the entire state.

Seats in the House of Representatives are distributed or apportioned among the states according to population. There are 435 House districts, each composed of about 650,000 people. No matter how small its population, every state is guaranteed at least one House member.

The exact apportionment among the states is determined by a national census of the population that is required by the Constitution every ten years. As a result of the 2000 census, Congress had to reallocate seats based on population shifts through a process called **reapportionment**. New York and Pennsylvania lost two House seats; Ohio, Indiana, Illinois, Wisconsin, and Michigan all lost one seat. Florida, Georgia, Texas, and Arizona gained two seats; Colorado, Nevada, North Carolina, and California gained one seat each.

While census figures dictate how House districts are apportioned across the nation, each state determines where those districts lie within its own boundaries. State legislatures nearly always control this **redistricting** process, subject to final approval by the governor or redistricting commissions in states such as Arizona and Iowa. By tradition, redistricting occurs in the state legislative session following the census.

When a single party controls both the legislative and executive branches in a state, it often draws the new map to increase the number of House districts that its own candidates are likely to win. In extreme cases, this process is known as **gerrymandering**, after Governor Elbridge Gerry who approved a Massachusetts redistricting plan that created a salamander-shaped district drawn for distinctly partisan purposes following the 1810 census.

Gerrymandering has become more sophisticated with the computer age. Both parties have developed redistricting software that allows majorities to “pack” and “crack” legislative districts to help their party. Packing is designed to concentrate a minority party’s voters in the smallest number of districts possible, thereby weakening their influence in other races, while cracking is designed to disperse a party’s voters into as many districts as possible, also weakening their influence.

As noted, redistricting has generally occurred in the state legislative session following the census. With a divided legislature in charge in 2001, Texas left the state congressional map mostly unchanged, yielding a 17 to 15 Democratic edge. But with a Republican legislature and a Republican governor in charge in 2003, Texas decided to redistrict the state again, hoping for a 22 to 10 Republican edge. When all the votes were counted, Republicans had defeated four sitting Democrats, producing a 21 to 11 Republican edge. In two districts, the 19th and the 32nd, Democratic incumbents lost their reelection bids to Republican incumbents who had been placed in the same district.

State legislatures may also draw districts in which a majority of voters are members of minority groups. Such racial gerrymandering is legal unless the legislature considered race and ignored traditional redistricting concerns, such as keeping communities together and reelecting incumbents.<sup>5</sup> Furthermore, a party attacking a majority-minority district must show that the legislature could have achieved the same political result with a significantly different racial balance. A challenge to a North Carolina congressional district failed because Republicans could not show that the district could include more white voters and still be drawn as favorably to Democratic interests.<sup>6</sup>

The principle of equal representation does not apply to the Senate. Because each state has two senators regardless of population, the Senate represents constituencies that are more rural, white, and conservative than would be the case if the one-person, one-vote norm applied to Senate elections.



The word “gerrymander” comes from the name of the governor of Massachusetts, Elbridge Gerry, and the salamander-shaped district that was created to favor his party in 1811.

### reapportionment

The assigning by Congress of congressional seats after each census. State legislatures reapportion state legislative districts.

### redistricting

The redrawing of congressional and other legislative district lines following the census, to accommodate population shifts and keep districts as equal as possible in population.

### gerrymandering

The drawing of legislative district boundaries to benefit a party, group, or incumbent.



*Betty Castor, the Democratic candidate for U.S. Senate in Florida, greets supporters on a campaign stop. State campaigns such as this are important as both parties struggle to gain control of the Senate. Castor lost her bid by less than 100,000 votes out of just over 7 million cast.*

Such disparities make the Senate the most malapportioned elected legislature in the democratic world, giving the advantage to residents of the smaller states. Frances Lee and Bruce Oppenheimer concluded that the size of a state's population affects senator-constituent relationships, fund raising and elections, strategic behavior within the Senate, and ultimately policy decisions.<sup>7</sup> The late Senator Daniel Patrick Moynihan (D.-N.Y.), who knew firsthand how citizens of larger states fared less well in U.S. Senate policy battles, predicted that "some time in the next century the United States is going to have to address the question of apportionment in the Senate,"<sup>8</sup> but the prospects for changing the two-senators-per-state constitutional rule are highly unlikely in the near future.

### Predicting Congressional Elections

The outcome of any congressional election depends on many factors, including campaign financing, local and national policy issues, and each candidate's skills. But all congressional elections start with the nature of the seat at stake. Some House campaigns involve a **safe seat**—one that is predictably won by one party or the other. Others involve a competitive seat that draws strong candidates from both major parties, while still others involve an open seat that has been vacated by a sitting member who retires or runs for higher office.

Because only a third of Senate seats are up for election every two years, Senate elections tend to be highly competitive and better financed than House elections. They also tend to turn on national, not local, issues, particularly in states with substantial media coverage. Although contests in large states often involve the largest amounts of money, even small states such as South Dakota, where former Senate Majority Leader Tom Daschle lives, can play host to very expensive campaigns.

In contrast, House elections tend to be local affairs. Although current members of Congress are sometimes judged by what they do in Washington, particularly on nationally visible issues such as prescription drug coverage, the war in Iraq, or education, most citizens have a favorable view of their own member of Congress. They might not recognize their member on the street, but they will recognize their member's name on the ballot. Because **incumbents**, or sitting members of Congress, have such significant advantages in campaigns, they are almost always reelected if they decide to run. As a result, less than 10 percent of congressional districts are considered competitive in any given election.

In the Senate, incumbents also enjoy significant advantages, and the number of competitive contests has declined. But Senate elections can also turn into national contests depending upon the incumbent's visibility. Because there are fewer Senate contests in any given election year, money tends to concentrate on a relatively small number of competitive contests, which can draw the kind of national media attention to convert them into national, not local, contests.<sup>9</sup>

The last thing most candidates want to do is "nationalize" an election. They would much rather have the campaign be about how well they served the local community through constituent service.

### The 2004 Congressional Elections

The 2004 congressional elections are best understood for what did not happen rather than for what did. Despite Democratic hopes for a surge in House seats and Republican hopes for a dramatic gain, the House campaigns produced a shift of only four seats for a balance of 232 to 202, with one independent reelected and the last two races decided in runoffs on December 4, 2004 (see table on page 277).

Also, despite Democratic hopes for a gain of enough Senate seats to recapture a majority and despite Republican hopes for a gain of enough seats to create the 60 votes needed to prevent filibusters, which are discussed later in this chapter, the Senate campaigns produced a net gain of four Republican seats for a balance of 55 to 44, with one independent who usually votes with the Democrats.

#### **safe seat**

An elected office that is predictably won by one party or the other, so the success of that party's candidate is almost taken for granted.

#### **incumbents**

The current holders of elected office.

The elections were hardly uneventful, however, particularly in the Senate, where the Democrats had 19 seats to defend and the Republicans had 15. Republicans took six seats from the Democrats, including the seat held by Senate minority leader Tom Daschle (D.-S.D.), who was defeated by 8,000 votes in the most expensive Senate race in the nation, and the last five Southern seats still held by Democrats, four of which were vacated through Democratic retirements. In turn, Democrats took two seats from the Republicans, including the Illinois seat won by Barack Obama, who had established a national presence with his keynote address at the Democratic National Convention in July 2004, and the Colorado seat occupied by Native American Ben Nighthorse Campbell, who had entered the Senate a Democrat but who retired after having switched to the Republican party.

**THE RESULTS** Beyond the Daschle upset and several tight contests in both chambers, the congressional elections produced little overall turnover. Voters reelected 18 of the 19 Senate incumbents who ran, and 394 of the 403 House incumbents who ran. Even including the Texas incumbents who lost, 98.2 percent of incumbents won reelection, marking the third highest rate in fifty years; without the Texans, the rate hit 99.2 percent.

Indeed, many Senators and Representatives faced token opposition at best. Even before the election, only 9 of the 33 Senate seats up for election were rated as competitive, six of which involved an open seat where an incumbent had retired; while 371 House districts were rated as “safe,” including 28 Democrats and 34 Republicans who ran unopposed. “In more than half the states with Senate races, voters are being denied the experience of seeing their senators seriously tested on their records or their plans,” Washington Post veteran columnist David Broder wrote just before election day, “The situation in the House of Representatives is similar—but worse.” (See David Broder, “What Democracy Needs: Real Races,” *The Washington Post*, October 31, 2004, p. B07.) As if to prove the point, four of the nine incumbents who were defeated came from Texas, where two of the losing Democratic incumbents were matched up against Republican incumbents in newly-created districts.

Much of the incumbency advantage involved campaign financing. According to the nonpartisan Campaign Finance Institute, candidates for the 435 House seats spent nearly \$450 million in 2004, while candidates for the 33 Senate seats spent nearly \$225 million. On average, the House campaigns cost more than \$1 million per seat, up almost 20 percent from the winners in 2002, while the Senate campaigns cost more than \$6.5 million, up nearly 50 percent from 2002 and almost 60 percent from 1998 when the same 33 seats were last up for election (see Campaign Finance Institute, “House Winners Average \$1 Million for the First Time; Senate Winners Up 47%,” news release, Washington, D.C., November 5, 2004).

More importantly, winners outspent their challengers by large margins. House incumbents who were reelected by 60 percent or more of the vote outspent their challengers by four to one, or \$900,000 to \$170,000; while Senate incumbents who won by similar margins outspent their challengers by a margin of five to one, or \$4.9 million to \$900,000. As of September 30, 2004, incumbent Senator George Voinovich (R.-Ohio) had \$4.2 million in cash on hand against an opponent with just \$93,000, while incumbent senator and future minority leader Harry Reid (D.-Nev.) had \$3.3 million in hand against an opponent with just \$15,000.



Freshmen House of Representatives of the 108th Congress, who took office in January 2003, on the steps of the U.S. Capitol for their “class” picture.

#### CONGRESSIONAL ELECTION RESULTS, 2004

	SENATE	
	2002	2004
Republican	51	55
Democrat	48	44
Independent	1	1
	HOUSE	
	2000	2004
Republican	229	232
Democrat	205	202
Independent	1	1





### ADVANTAGES OF INCUMBENCY

- Incumbents are better known than their challengers, and to be known at all is generally to be known favorably.
- Except for the 90 days before an election, incumbents do not have to pay postage for mailings back home, and they are allowed to send bulk e-mails any time.\*
- Incumbents have greater access to the media, especially on local or state issues.
- Incumbents can raise campaign money more easily than challengers—donors like to put their support behind winners.
- Incumbents usually have more campaign experience than their challengers, and they are usually better campaigners.
- Incumbents often help constituents solve problems with government, and they often take credit for federal spending in their districts or state.

\* For a discussion of how members have evaded federal legislation against bulk e-mails, or spam, see Jennifer S. Lee, "We Hate Spam, Congress Says (Except When It's Sent by Us)," *The New York Times*, December 18, 2003, p. A1.

Given its national importance to both Democrats and Republicans, South Dakota had the most expensive Senate campaign at \$33 million. But high spending was not always tied to competitiveness. Despite the lack of strong opposition, New York had the second most expensive Senate campaign at \$28 million, followed by California at \$23 million, and Pennsylvania at \$20 million.

Texas had the most expensive House race at \$8.4 million in a Dallas-Fort Worth contest between two incumbents, Democrat Martin Frost and Republican Pete Sessions, which Sessions won, while South Dakota came in with the second most expensive contest at almost \$6 million as Democrat Stephanie Herseth outlasted Republican Larry Diedrich in a rematch of their special election battle only six months earlier.

Although incumbency and the campaign money that goes with it help explain the 2004 results, there were a number of unpredictable contests in which candidate conduct contributed to the uncertainty. In the Senate elections, Illinois Democrat Obama won his seat after the initial Republican candidate quit following reports that he had taken his wife to a sex club in Paris; Kentucky Republican incumbent and former major league Hall-of-Fame pitcher, Jim Bunning, survived despite having described his opponent as resembling one of Iraqi dictator Saddam Hussein's sons; Oklahoma Republican candidate Tom Colburn won his election after saying that physicians who perform abortions should be subject to the death penalty; and Alaska Republican Lisa Murkowski won her first election after having been appointed to her seat by her father, who was governor at the time. (For a complete summary of the 2004 congressional campaigns, see *Congressional Quarterly Weekly*, November 6, 2004.)

In the House, Illinois Democratic challenger Melissa Bean defeated the dean of the Republican majority, Philip Crane, who had been in the House since 1969 when she was just seven years old; while a Colorado Democrat and brother of the state's new senator won an open seat once held by a Republican.

If there was a single winner in the elections, it was House majority leader Tom DeLay, who designed the Texas redistricting strategy that gave the Republicans the four added seats. DeLay positioned himself as the heir-apparent when the current Speaker of the House, J. Dennis Hastert, retires. DeLay is not without enemies, however, and may yet face an indictment surrounding allegations that he directed corporate funding into the 2002 Texas state legislative campaigns that produced the new majority stemming from the redistricting.

**GOVERNING IN THE NEW CONGRESS** The Senate clearly emerged as the new battleground in governing. Several of the new Republican senators are deeply conservative and have promised to bring issues such as abortion and gay marriage to the floor for votes as soon as possible, while veterans in both chambers have already signaled their intention to press for Democratic concessions on social and economic issues. "I earned capital in the campaign, political capital, and now I intend to spend it," President Bush said in November 2004, and he clearly hopes that his dual majorities in Congress will do much of the spending.

However, as Democrats learned when they had similar majorities in both chambers, 55 votes in the Senate is still five votes shy of the 60 needed to shut down filibusters and 11 short of the number needed to ratify treaties.

## THE STRUCTURE AND POWERS OF CONGRESS

The framers made two critical decisions about Congress early in the Constitutional Convention. First, they agreed to create a legislature as the first branch of government. Next, they divided that legislature into two chambers, the House of Representatives and the Senate. In doing so, the framers created one of the single most important obstacles to making laws. Worried about the tendency for the legislative branch to dominate government, they diluted the power of Congress by creating two chambers "as little connected with each other as the nature of their common functions and their common



Members of Congress are expected to fight for federal funding of projects in their district. Here Representative Nancy Pelosi (Democrat, 8th Congressional District in San Francisco) takes part in an official groundbreaking for the new Federal Building in San Francisco.

dependence on the society will admit.”<sup>10</sup> Not only would Congress be balanced by the presidency and judiciary, but it would also be balanced against itself.

## A Divided Branch

**Bicameralism** remains the most important organizational feature of the U.S. Congress. Each chamber meets in separate wings of the Capitol Building (see Figure 11–1); each has offices for its members on separate ends of Capitol Street; each has its own committee structure, its own rules for considering legislation, and its own record of proceedings (even though the records are published together as the *Congressional Record*); and each sets the rules governing its own members (each establishes its own legislative committees, for example).<sup>11</sup>

Bicameral legislatures were common in most of the colonies, and the framers believed that the arrangement was essential for preventing strong-willed majorities from oppressing individuals and minorities.<sup>12</sup> As James Madison explained in *The Federalist*, No. 51, “In order to control the legislative authority, you must divide it.” (*The Federalist*, No. 51, is reprinted in the Appendix.) Although the Seventeenth Amendment to the Constitution (1913) provided for direct election of U.S. senators (senators were originally chosen by state legislatures), the two chambers remain very different (see Table 11–1).

Defenders of bicameralism point to its moderating influence on partisanship or possible errors in either chamber. This constitutionally mandated structure also guarantees that many votes will be taken before a policy is finally approved. The arrangement also provides more opportunities for bargaining and allows legislators with different policy goals a role in the shaping of national laws.

## The Powers of Congress

The framers gave the longest list of **enumerated powers** to Congress. Because the Revolutionary War had been sparked by unfair taxation, the framers listed the power “to lay and collect Taxes” as the very first duty of Congress. They then gave Congress the power to borrow and coin money, regulate citizenship, build post offices and postal roads, and establish the lower courts of the federal judiciary, meaning every court below the Supreme Court. The framers also gave Congress the power to protect the nation against

### bicameralism

The principle of a two-house legislature.

### enumerated powers

The powers explicitly given to Congress in the Constitution.



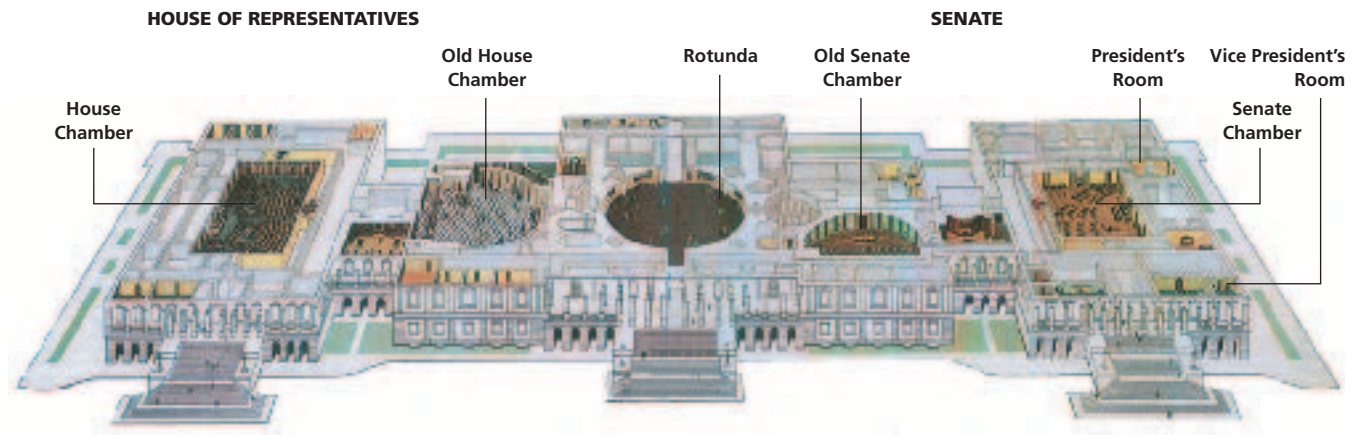


FIGURE 11-1 The Capitol Building.

foreign threats by declaring war, raising armies, and building navies; and the power to protect the nation from domestic threats by regulating commerce and immigration.

Just in case the list was not enough to allow Congress to do its job, the framers gave Congress the catchall power to “make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.” This clause is sometimes called the *elastic clause* because it stretches to cover much of what Congress might do. The Constitution also gave Congress complete authority to set its own rules for its proceedings.

Finally, the Constitution gave Congress several nonlegislative functions, such as participating in the process of constitutional amendment and impeachment (given to the House) and trying an impeached federal officer (given to the Senate). The Constitution stipulates that the grounds for impeachment that can lead to the removal from office of a president or vice president or other federal officers, including federal judges,

**TABLE 11-1 DIFFERENCES BETWEEN THE HOUSE OF REPRESENTATIVES AND THE SENATE**

<i>House</i>	<i>Senate</i>
Two-year term	Six-year term
435 members	100 members
Elected in districts	Elected by states
Fewer personal staff	More personal staff
Tighter rules	Looser rules
Decision to act made by majority	Decision to act made by unanimous consent
Tax bills must come from the House	Foreign treaties must be ratified by the Senate
Less media coverage	More media coverage
Less prestige	More prestige
More powerful committee leaders	More equal distribution of power
Nongermane amendments (riders) not allowed	Nongermane amendments (riders) not allowed
Rules Committee sets terms of debate	Senate as a whole sets terms of debate
Limited debate	Extended debate
Some bills permit no floor amendments (closed rule)	Amendments generally allowed
No filibuster allowed	Filibuster allowed

are the commission of “High Crimes and Misdemeanors” (never clearly defined). The House sits to determine whether or not an official’s actions reach the level of impeachable offenses, and if so, it can impeach by a majority vote. The Senate sits as a court to decide if the impeached official should be convicted and whether the nature of the offense warrants removal from office. A two-thirds vote is needed to convict; thus a minority of just 34 senators can block the conviction of an impeached official.

As the impeachment power shows, the Constitution gives different duties to each chamber. The Senate has the power to confirm many presidential nominations. The Senate must also play a crucial “advise and consent” role in making treaties—formal agreements between the United States and other countries. All treaties must be approved by a two-thirds vote in the Senate before they can be ratified by the president.

The House has some of its own responsibilities, too, but they are not as important as those given to the Senate. For example, although all revenue bills must originate in the House, this practice does not give the House much advantage, because the Senate can freely amend spending bills even to the point of changing everything except the title.

Despite its position as the first branch of government and its substantial powers, Congress has difficulty keeping pace with its great rival, the presidency. The president’s national security responsibilities, preparation of the budget, media visibility, and agenda-setting influence have all enhanced the position of the presidency relative to Congress.

## MAKING CONGRESS WORK

Today’s Congress bears the unmistakable imprint of the bicameralism created more than 200 years ago. The Senate prides itself on being an incubator of ideas, a place in which individual members can take the floor to defend an intense minority and delay action until at least 60 senators vote to end the debate; the House prides itself on being the voice of the people.

The two chambers are no more complex, however, than the society they have come to represent and the executive branch they must oversee. It was far easier to control the 59 House members and 22 senators who represented white male property owners in 1789 when the First Congress was gavelled to order than it is to control the 435 House members and 100 senators who represent the diverse United States today. It was far easier to write legislation for the small government in 1789 than for today’s 15 departments

## IN COMPARATIVE PERSPECTIVE

### THE NIGERIAN ASSEMBLY

**A**s one of the world’s largest suppliers of oil, Nigeria has extraordinary wealth. It has also long been divided by political and ethnic conflict. Nigeria adopted a new constitution in 1999 after nearly 16 years of brutal military rule. Under its new constitution, Nigeria adopted a variation of America’s divided government, opting for a separately elected president and a bicameral legislature. Both chambers of the National Assembly are elected by popular vote for four-year terms.

In its first four years in office, the Nigerian Assembly showed both strengths and weaknesses. It has been a reluctant participant in efforts to reduce the corruption and bribery that emerged after military rule, and it has been unable to control human rights abuses against civilians. The assembly has also shown little willingness to challenge the president.

Building an effective legislature takes time and experience, however. According to recent newspaper reports, the Nigerian Assembly is increasingly aware of its need for greater independence, especially in the wake of spring 2003 elections. As Representative Ganiyu Solomon argued in July 2003, “Nigerians should just give us time to settle down and pick up our work tools, then they will never regret they voted us as their representatives. It is just barely three months we got in here, so, we hardly could have done anything astonishing. . . . Ours will never be called a rubber stamp legislature, we will not drag our reputation and the trust of our people into the mud for compromise sake.”\*

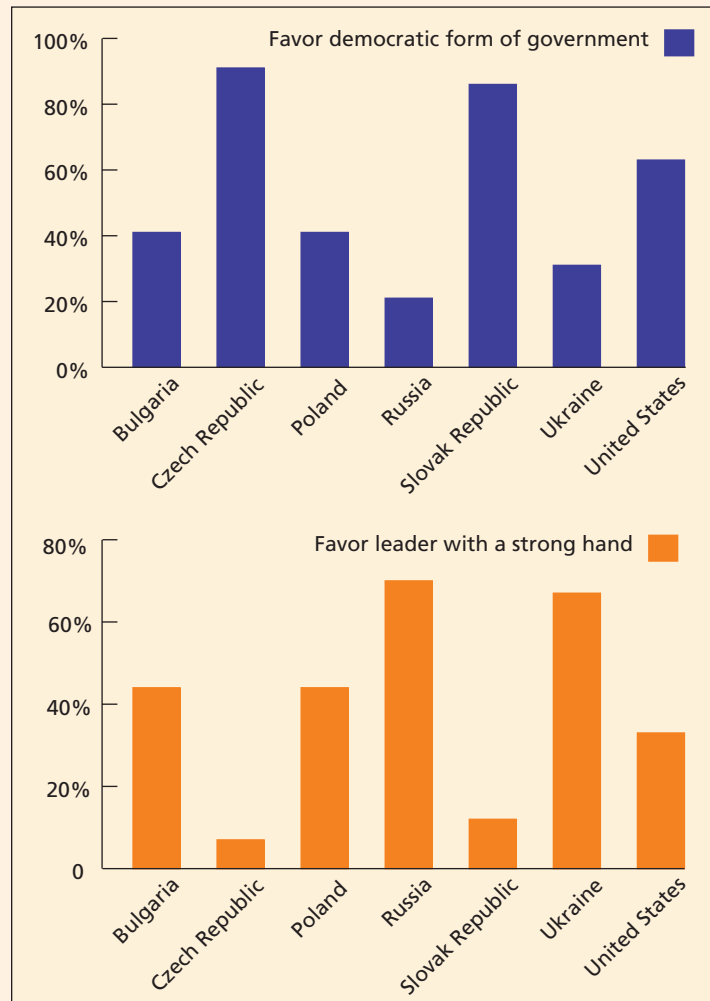
\* “Nigeria: What Role for the National Assembly,” *Africa Today*, July 18, 2003, [Nexis.com](http://Nexis.com).

## GLOBAL Perceptions

**QUESTION:** Some feel that we should rely on a democratic form of government to solve our country's problems. Others feel that we should rely on a leader with a strong hand to solve our country's problems. Which comes closer to your opinion?

**W**hen given a choice between the delays that sometimes come with democratic government and a strong leader who makes the key decisions, citizens around the world come to very different judgments.

SOURCE: The Pew Global Attitudes Project, June 2003, p. 87.



and 2.6 million employees. In the 1790s, a handful of permanent committees could handle the entire task of making the laws and checking government.

### Leading the House of Representatives

The organization and procedures in the House are different from those in the Senate, largely because the House is more than four times larger than the Senate. A larger membership requires more rules, which means that *how* things are done affects *what* is done. The House assigns different types of bills to different calendars. For instance, financial measures—tax or appropriations bills—are put on a special calendar for quicker action.

The House has other ways to speed up lawmaking, including electronic voting. Ordinary rules may be suspended by a two-thirds vote, or immediate action may be taken by *unanimous consent* of the members on the floor. By acting as a *committee of the whole*, the House is able to operate more informally and more quickly than under its regular rules. A *quorum* in the committee of the whole requires only 100 members, rather



than a majority of the whole chamber, and voting is quicker and simpler. Members are limited in how long they can speak, and debate may be cut off simply by majority vote.

These differences are based in part on how well each government has done in solving economic and social problems over the past decade. Russia and the Ukraine have been in nearly constant economic turmoil since the end of the Cold War, while the Czech Republic has made significant progress in strengthening its economy. Moreover, the Czech Republic was one of the leaders in the effort to overthrow communism in the late 1980s, which may help explain its support for democratic rule.

**THE SPEAKER OF THE HOUSE** The **Speaker** is the presiding officer in the House of Representatives.<sup>13</sup> The Constitution mandates that the House of Representatives shall choose its Speaker, yet it does not say anything about the duties or powers of the office. The Speaker is formally elected by the entire House yet is actually selected by the majority party. As the highest-ranking officer in Congress, the Speaker represents the legislative branch on ceremonial occasions. The Speaker is second in the line of succession to the presidency (after the vice president) in case of the death, resignation, or impeachment of the president and must keep the White House informed about his or her whereabouts.

The Speaker has the power to recognize members who rise to speak, rule on questions of parliamentary procedure, and appoint members to temporary committees (but not the major committees that help make the laws). In a sentence, the Speaker directs business on the floor of the House. More significant, of course, is the Speaker's political and behind-the-scenes influence.

When the Republicans won control of the House in 1994, they elected Representative Newt Gingrich of Georgia as Speaker. As the first Republican Speaker in 40 years, he was a novelty in Washington. "I had set out to do a very unusual job," said Gingrich, as "part revolutionary, part national political figure, part Speaker, part intellectual."<sup>14</sup>

Gingrich established his authority—reorganizing House committees, naming committee chairs, bypassing the seniority rule to appoint his allies to leadership posts, reorganizing House committees, and reducing perks and committee staffs. He pushed through some of the legislation outlined in the long list of campaign promises called the "Contract with America." He delegated considerable power to fellow Republican leaders yet claimed for himself the main role as spokesperson for major policy initiatives. He published books detailing his ideas about government and his party, and he cheerfully took on the White House and the national press.<sup>15</sup>

After a long investigation into the Speaker's use of tax-exempt funds, the House Ethics Committee concluded that Gingrich had violated its standards of conduct. He insisted that there was little overlap between his political activities and his nonpartisan educational endeavors, but the committee recommended, and the House of Representatives quickly passed, a reprimand of Gingrich and imposed a fine of \$300,000 for misusing charitable deductions for political purposes and for misleading the House Ethics Committee. This was an unprecedented rebuke for a Speaker.

Following his party's poor showing in the midterm election of 1998, Gingrich retired both as Speaker and as a member of Congress. Republicans soon selected Illinois Representative J. Dennis Hastert as Speaker. Hastert, a former high school teacher and wrestling coach, had served for six years in the Illinois state legislature and 12 years in the U.S. House of Representatives before becoming Speaker of the House. "It's a calling that I have not sought," said Hastert about the Speakership. "However, it is a duty that I cannot ignore."<sup>16</sup> Hastert displays a low-key, quiet self-confidence that has pleased most Republicans and has earned praise from Democrats.<sup>17</sup> He has been particularly effective in holding Republicans together on key party votes in the chamber while drawing extra votes from Democrats who belong to the "Blue Dog" coalition, a group of mostly southern conservatives.

**OTHER HOUSE OFFICERS** The Speaker is assisted by the **majority leader**, who helps plan party strategy, confers with other party leaders, and tries to keep members of the party in line. The minority party elects the **minority leader**, who usually steps into the Speakership when his or her party gains a majority in the House. (These positions are also sometimes called majority and minority *floor leaders*.) Assisting each floor leader are the party **whips**. (The term comes from *whipper-in*, the huntsman who keeps the hounds



Republican Dennis Hastert, Speaker of the House of Representatives.

#### **Speaker**

The presiding officer in the House of Representatives, formally elected by the House but actually selected by the majority party.

#### **majority leader**

The legislative leader selected by the majority party who helps plan party strategy, confers with other party leaders, and tries to keep members of the party in line.

#### **minority leader**

The legislative leader selected by the minority party as spokesperson for the opposition.

#### **whip**

Party leader who is the liaison between the leadership and the rank-and-file in the legislature.

# CHANGING FACE OF AMERICAN POLITICS

## DIVERSITY IN CONGRESS

**A**lthough the Constitution does not mention race, gender, or wealth among the qualifications for office, the framers expected members of Congress to be white male property owners. After all, women and slaves could not vote, let alone hold office.

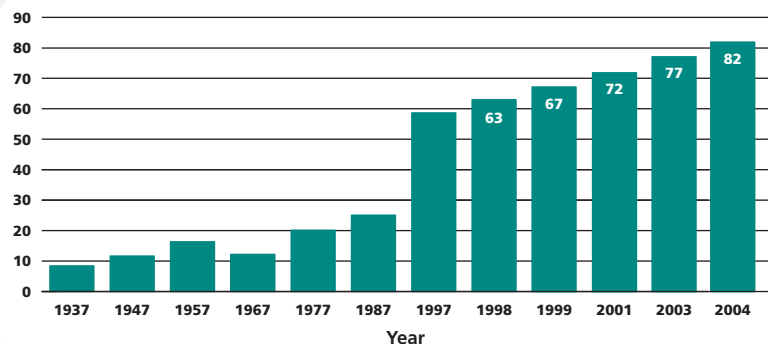
The framers would therefore be surprised at the face of Congress today. Recent Congresses have had record numbers of women and minorities. In 2004, Illinois voters elected only the third African American senator since the 1870s, Barack Obama, while Florida voters elected the first Cuban American, Mel Martinez, and Colorado voters elected the first Hispanic in thirty years, Ken Salazar. Voters also reelected all five women senators and added ten women and minority members to the list of U.S. representatives.

The changing face of Congress reflects the growing effectiveness of women and minority candidates in running for office, as well as increased participation by minority voters. The Voting Rights Act of 1965 allowed millions of African Americans to register and vote in the South. In Mississippi, for example, only 14 percent of African Americans were registered to vote in 1960. By 1968, the number had increased to 64 percent. As the number of African American voters increased, so did the number of African American legislators.

Congress is becoming more diverse by race and gender, but it still remains very different from the rest of America on income and occupation. Almost one-third of the senators who served in the 108th Congress were millionaires, and more than half were lawyers. Moreover, old customs die hard. Even with the Democratic senator from Washington, Patty Murray, sitting on his Appropriations Committee, Chairman Robert Byrd still addressed committee members as “Gentlemen.” At the current rate of change in the number of women, for example, it



U.S. Senator Barbara Mikulski (D-Md), shown at the podium, with the other female Democratic senators on stage at the 2004 Democratic National Convention in Boston.



**Number of Women in U.S. Congress.**

SOURCE: *Congressional Quarterly Weekly*, November 6, 2004, p. 263.

will take another 400 years before women constitute a majority in the House.\*

\*See the United States Capitol Historical Society, “Outstanding African-American Members of Congress” and “Women Members of Congress” at [www.uschs.org/04\\_history/subs\\_articles/04e.html](http://www.uschs.org/04_history/subs_articles/04e.html).

### party caucus

A meeting of the members of a party in a legislative chamber to select party leaders and to develop party policy. Called a *conference* by the Republicans.

bunched in a pack during a fox hunt.) The whips serve as liaisons between the House leadership of each party and the rank-and-file. They inform members when important bills will come up for a vote, prepare summaries of the bills, do vote counts for the leadership, exert pressure (sometimes mild and sometimes heavy) on members to support the leadership, and try to ensure maximum attendance on the floor for critical votes.

At the beginning of the session and occasionally afterward, each party holds a **party caucus** of all its members (called a *conference* by the Republicans) to elect party officers, approve committee assignments, elect committee leaders, discuss important legislation, and perhaps try to agree on party policy.

**THE HOUSE RULES COMMITTEE** The House has a powerful Rules Committee that regulates the time of floor debate for each bill and sets limitations on floor amendments.



By refusing to grant a *rule*, which describes the conditions of debate, the Rules Committee can delay consideration of a bill. A **closed rule** prohibits amendments altogether or provides that only members of the committee reporting the bill may offer amendments; closed rules are usually reserved for tax and spending bills. An **open rule** permits debate within the overall time allocated to the bill.

From the New Deal era in the mid-1930s until the mid-1960s, a coalition of Republicans and conservative Democrats used the Rules Committee to block significant legislation on civil rights, health care, and poverty. Liberals denounced it as unrepresentative, unfair, and dictatorial. More recently, the Rules Committee membership has come to reflect the views of the general makeup of the majority party. It has become much less an independent obstacle to legislation and more a place to design rules that help advance the general goals of the majority party.

## Leading the Senate

The Senate has the same basic committee structure, elected party leadership, and decentralized power as the House, but because the Senate is a smaller body, its procedures are more informal, and it permits more time for debate. It is a more open, fluid, and decentralized body now than it was a generation or two ago. Indeed, it is often said that the Senate has 100 separate power centers and is so splintered that the party leaders have difficulty arranging the day-to-day schedule.<sup>18</sup>

The Senate is led by the Senate majority leader, who is elected by the majority party in the Senate. When the majority leader is from the president's party, the president is the party's most visible leader. However, when the majority leader and the president are from different parties, the majority leader is considered his or her party's national spokesperson.

As the Senate's power broker, the majority leader has the right to be the first senator heard on the floor. In consultation with the Senate minority leader, the majority leader controls the Senate's agenda and recommends committee assignments for members of the majority party. But the position confers less authority than the Speakership in the House, and its influence depends on the person's political and parliamentary skills and on the national political situation.<sup>19</sup> Senate majority leaders have to be persuaders and negotiators, not only working closely with the minority leader but also working with a number of powerful majority and minority senators and the White House.

Nevertheless, the majority leader does have substantial influence over the legislative agenda in the Senate. Senator Lott proved this point in the session of Congress immediately following the 2002 election. Although his party was not technically in the majority until the new Congress was sworn into office in January 2003, Lott worked with the president to make sure that the new Department of Homeland Security became law. (Chapter 13 provides more details on the new department.)

Lott was not to be majority leader for long, however. He soon became embroiled in a controversy surrounding remarks he made at the 100th birthday party for retiring South Carolina Senator Strom Thurmond. In congratulating Thurmond for his 48 years of Senate service, Lott remarked that the nation would have been better off had Thurmond won the presidency as the candidate of the Dixiecrat Party in 1948. The Dixiecrat Party was formed to oppose racial integration, and fought civil rights throughout the 1950s and into the 1960s. Lott was forced to resign his post on December 20, 2002, and was replaced by Tennessee Senator Bill Frist, a former heart surgeon who had been in the Senate for just eight years.

Party machinery in the Senate is similar to that in the House. There are party caucuses (conferences), majority and minority floor leaders, and party whips. Each party has a *policy committee*, composed of party leaders, which is theoretically responsible for the party's overall legislative program. In the Senate, the party policy committees assist the leadership in monitoring legislation and provide policy expertise. Unlike the House party committees, the Senate's party policy committees are formally provided for by law, and each has a regular staff and a budget. Although the Senate party policy committees have some influence on legislation, they have not asserted strong legislative leadership or managed to coordinate policy.



Senator Bill Frist of Tennessee, Republican majority leader, holds a sample drug discount card that will soon be available to Medicare recipients as a result of major changes in the Medicare program made late in 2003.



Former U.S. Senate minority leader Tom Daschle making a point on NBC's *Meet the Press*. Daschle was defeated for reelection in 2004, becoming the first senate leader of either party to lose his seat in over fifty years. Nevada's Harry Reid became the Senate Minority leader in January 2005.

### closed rule

A procedural rule in the House of Representatives that prohibits any amendments to bills or provides that only members of the committee reporting the bill may offer amendments.

### open rule

A procedural rule in the House of Representatives that permits floor amendments within the overall time allocated to the bill.



The president of the Senate (the vice president of the United States) also has little influence over Senate proceedings. A vice president can vote only in case of a tie. The Senate elects a **president pro tempore**, usually the most senior member from the majority party, who acts as chair in the absence of the vice president. Presiding over the Senate on most occasions is a thankless chore, so the president pro tempore regularly delegates this responsibility to junior members of the chamber's majority party.

Despite these various leaders and offices, the Senate is far less structured than the House. It has always operated under rules that vest great power in the individual senator. Extended debate allows senators to hold the floor as long as they wish unless a supermajority of 60 colleagues votes to end debate. Moreover, the Senate's rules allow individual senators to offer amendments on virtually any topic to a pending bill, allowing them to amend a bill to death.<sup>20</sup>

One relatively recent expression of this individualism is a practice called the **hold**. Holds were originally designed to give individual senators a short period to prepare for a debate or delay a vote for personal reasons. Over time, however, they have become a powerful device for blocking action on legislation and nominations.

Although successful Senate leadership still depends on personal relationships, individual members have become more partisan in recent decades. "Senators known for compromise, moderation and institutional loyalty," observe political scientists Nicol Rae and Colton Campbell, "have been replaced with more ideological and partisan members who see the chamber as a place to enhance their party fortunes."<sup>21</sup> Partisanship in the Senate was vehement during the Bill Clinton impeachment proceedings and to a lesser extent in the confirmation battle of George W. Bush's nominee, John Ashcroft, as his attorney general.

**THE FILIBUSTER** Because of its smaller size and looser rules, debate is more open in the Senate. A senator who gains the floor may go on talking until he or she relinquishes the right to talk voluntarily or through exhaustion. This right to unlimited debate, known as the **filibuster**, may be used by a small group of senators to delay Senate proceedings by talking continuously so as to postpone or prevent a vote. At one time, the filibuster was a favorite weapon of southern senators intent on blocking civil rights legislation. More recently, the filibuster has been used for a wider range of issues, including efforts to stop judicial nominations and prevent passage of campaign finance reform.

A filibuster, or the threat of a filibuster, is typically most potent at the end of a congressional session, when a date has been fixed for adjournment, because it could mean that many bills that have otherwise made it through the legislative process will die for lack of a floor vote. The knowledge that a bill might be subject to a filibuster is often enough to force a compromise satisfactory to its opponents. Sometimes the leaders, knowing that a filibuster will tie up the Senate and keep it from enacting other needed legislation, do not bring a controversial bill to the floor.

A filibuster can be defeated. Until 1917, the Senate could terminate a filibuster only if every member agreed. That year, however, the Senate adopted its first debate-ending rule, or **cloture**. The rule specifies that the question of curtailing debate must be put to a vote two days after 16 senators sign a petition asking for cloture. If three-fifths of the total number of the Senate (60 of the 100 members) vote in favor of cloture, no senator may speak on the measure under consideration for more than one hour. Once invoked, cloture requires that the final vote on the measure be taken after no more than 30 hours of debate.

There has been an increase in the use and threat of filibusters in recent years, and these tactics have often been used for partisan and parochial purposes. Indeed, as noted, senators usually anticipate a filibuster on controversial measures, and the threat is often sufficient to force the majority to compromise and modify its position.<sup>22</sup> Both parties have learned to use the filibuster when they are in the minority. The Senate has averaged almost two dozen filibusters each year since 2001. Of the 45 cloture votes taken in 2001–2003, just 12 succeeded, 10 in 2001–2002, and two in 2003.<sup>23</sup>

**THE POWER TO CONFIRM** The Constitution leaves the precise practices of the confirmation process somewhat ambiguous: "The President . . . shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public

#### **president pro tempore**

Officer of the Senate selected by the majority party to act as chair in the absence of the vice president.

#### **hold**

A procedural practice in the Senate whereby a senator temporarily blocks the consideration of a bill or nomination.

#### **filibuster**

A procedural practice in the Senate whereby a senator refuses to relinquish the floor and thereby delays proceedings and prevents a vote on a controversial issue.

#### **cloture**

A procedure for terminating debate, especially filibusters, in the Senate.

Ministers and Consuls, Judges of the Supreme Court, all other officers of the United States.” The framers of the Constitution regarded the confirmation process—the Senate’s “advise and consent” power—as an important check on executive power. Alexander Hamilton viewed it as a way for the Senate to prevent the appointment of “unfit characters.”

As with other legislative business, the confirmation process starts in committees, with the relevant committee that oversees the particular function or activity involved. For example, the Judiciary Committee considers federal judges and Supreme Court nominees; the Foreign Relations Committee considers ambassadorial appointments. Nominees appear before the committee to answer questions, and they typically meet individually with key senators before the hearing.

Presidents have never enjoyed exclusive control over hiring and firing in the executive branch. The Senate jealously guards its right to confirm or reject or even delay major appointments; during the period of strong Congresses after the Civil War, presidents had to struggle to keep their power to appoint and dismiss. But for most of the past century, presidents have gained a reasonable amount of control over top appointments, in part because a growing number of people in and out of Congress believe that chief executives without compatible cabinet-level appointees of their choice cannot be held accountable. The Senate’s advise and consent powers sometimes force presidents to make compromises, plainly constraining their ability to use the presidential appointment power.

The Senate’s role in the confirmation process was never intended to prevent a president from taking political considerations into account when appointments are made. Rather, the Senate was given the power to protect the judicial branch against weak or controversial nominees. During the Bush administration, conservatives complained that Senate Democrats were interfering with the executive power of the president by rejecting nominees because of their political beliefs. Only years before during the Clinton administration, however, liberals complained that Senate Republicans were doing the same thing.

In recent years, the Senate has taken a tough stand on some presidential appointments and spent more time evaluating and screening presidential nominations. The Senate rejected several nominees of Presidents Ronald Reagan and George Bush, and Presidents Bill Clinton and George W. Bush withdrew several nominees in the face of Senate opposition. In November, 2003, for example, Senate Republicans staged a 39-hour debate designed to break a Democratic filibuster of four controversial Bush administration judicial nominees. The debate began on a Wednesday night at 6 p.m. and continued until 9 a.m. Friday, but ended on 53 to 43 votes for all four nominees, seven votes short of the 60 needed to move ahead. During the debate, Democratic Senator Edward Kennedy (D.-Mass.) promised to “continue to resist any Neanderthal that is nominated by this president,” while Republican Senator Orrin Hatch (R.-Utah) described the filibusters as “petty politics . . . cheap politics. . . .”<sup>24</sup>

There is an important distinction between *judicial* appointments, especially those to the Supreme Court, and *executive branch* or *administrative* appointments. For the most part, the Senate gives the president the benefit of the doubt in selecting executive appointees, but plays a greater role in judicial appointments because federal judges serve for life and constitute an independent check on both Congress and the executive branch.<sup>25</sup>

Even here, however, the Senate and the president often work closely to reach agreement, especially on district court judges. Under the tradition of **senatorial courtesy**, presidents confer with the senator or senators in their own political party from the state where a judge is to work, or “sit.” Occasionally, a president has to take into account the views of a politically powerful senator in the opposition party. A nomination is less likely to secure Senate approval against the objection of these senators, especially if these senators are members of the president’s party.

## Congressional Committees

It is sometimes said that Congress is a collection of committees that come together in a chamber every once in a while to approve one another’s actions. Congress has long relied on committees to get its work done. Woodrow Wilson, a political science professor before he became president, expressed a similar thought: “Congress in session is



As part of her confirmation process, Labor Secretary Elaine Chao answered questions for congressional committee members on Capitol Hill.

### **senatorial courtesy**

Presidential custom of submitting the names of prospective appointees for approval to senators from the states in which the appointees are to work.



*Members of the Senate Armed Services Committee hear testimony from Secretary of Defense Donald Rumsfeld on allegations of prisoner abuse in Iraq.*

Congress on display. Congress in committee is Congress at work.”<sup>26</sup> More precisely, Congress in subcommittee is Congress at work, because the initial struggle over legislation takes place in subcommittees.<sup>27</sup>

**TYPES OF COMMITTEES** In theory, all congressional committees are created anew in each new Congress. In reality, however, most continue with little change from Congress to Congress. **Standing committees** are the most durable and are the sources of most bills, while **special or select committees** come together to address temporary priorities of Congress such as aging or taxes and rarely author legislation. **Joint committees** have members from both the House and the Senate and exist either to study an issue of interest to the entire Congress or to oversee congressional support agencies such as the Library of Congress or the U.S. Government Printing Office. Almost all standing committees have subcommittees that help handle the legislative workload.

Of the various types of committees, standing committees are the most important for making laws and representing constituents, and they fall into four types: authorizing, appropriations, rules, and revenue. There are more than three dozen standing committees in the House and Senate.

**Authorizing committees** These committees pass the laws that tell government what to do. The House and Senate education and labor committees, for example, are responsible for setting the rules governing the Pell Grant student loan program, including who can apply, how much they can get, where the loans come from, and how defaults are handled. Simply stated, authorizing committees make the most basic decisions about who gets what, when, and how from government. In 1999–2000, there were 15 authorizing committees in the House and 17 in the Senate. The number of committees remained unchanged in 2003–2004.

Authorizing committees are also responsible for oversight of the federal bureaucracy. Some of this oversight is designed to ask whether programs are working well, and some is designed to reduce fraud, waste, or abuse in an agency of government. The amount of congressional oversight is increasing. Political scientist Joel Aberbach found, for example, that just 8 percent of all legislative hearings focused on oversight in 1961, compared to over 25 percent just two decades later.<sup>28</sup>

**Appropriations committees** These committees make decisions about how much money government will spend on its programs and operations. Although there is just one appropriations committee in each chamber, each appropriations committee has one

#### **standing committee**

A permanent committee established in a legislature, usually focusing on a policy area.

#### **special or select committee**

A congressional committee created for a specific purpose, sometimes to conduct an investigation.

#### **joint committee**

A committee composed of members of both the House of Representatives and the Senate; such committees oversee the Library of Congress and conduct investigations.



subcommittee for each of the 13 appropriations bills that must be enacted each year to keep government running. Because they decide who gets how much from government, these subcommittees have great power to undo or limit decisions by the authorizing committees.

*Rules and administration committees* determine the basic operations of the two houses—for example, how many staffers individual members get. Again because of the number of members it must control, the House Rules Committee is more powerful than its twin in the Senate. As noted earlier, the House Rules Committee has special responsibility for giving each bill a rule, or ticket, to the floor of the House and determines what, if any, amendments to a bill will be permitted.

*Revenue and budget committees* These committees deal with raising the money that appropriating committees spend while setting the broad targets that shape the federal budget. The House Ways and Means Committee is arguably the single most powerful committee in Congress, for it both raises and authorizes spending. As the only committee in either chamber that can originate tax and revenue legislation, it is also responsible for making basic decisions on the huge Social Security and Medicare programs.

**CHOOSING COMMITTEE MEMBERS** The political parties control the selection of standing committee members. The chair and a majority of each standing committee come from the majority party. The minority party is represented on each committee roughly in proportion to its membership in the entire chamber, except on some powerful committees on which the majority may want to enhance its position.

Getting on a politically advantageous committee is important to members of Congress. A representative from Kansas, for example, would rather serve on the Agriculture Committee than on the Banking and Financial Services Committee. Members usually stay on the same committees from one Congress to the next, although junior members who have had less desirable assignments often seek better committees when places become available.

The House and Senate choose committee members in different ways, and actually rank committees in different ways. (See Table 11–2 for the differences.)

Republicans in the House choose committee members through their Committee on Committees, which is composed of one member from each state that has Republican representation in the House. Because each member has as many votes in the committee as there are Republicans in the delegation, the group is dominated by senior members from the large state delegations. Democrats in the House choose committee members through the Steering and Policy Committee of the Democratic caucus in negotiation with senior Democrats from the state delegations.

Veteran party members also dominate the Senate assignment process, where both parties have small Steering Committees that make committee assignments. In making assignments, leaders are guided by various considerations: how talented and cooperative a member is, whether his or her region is already well represented on a committee, and whether the assignment will aid in reelecting the member. Sometimes fierce battles erupt within these committees, reflecting ideological, geographical, and other differences.

One way Congress copes with its legislative workload is to organize its committees and subcommittees by subject matter. This specialization allows members to develop technical expertise in specific areas and to recruit skilled staffs. Thus Congress is often able to challenge experts from the bureaucracy. Interest groups and lobbyists realize the great power a specific committee has in certain areas and focus their attention on its members. Similarly, members of executive departments are careful to cultivate the committee and subcommittee chairs and members of “their” committees.

How each chamber in Congress uses committees is critical in its role as a partner in policy making, both with the other house and with the executive branch. In recent years, progress has been made in opening hearings to the public and improving the quality of committee staffs, but it is difficult to restructure committee jurisdictions so that they do not overlap. Consequently, a dozen different committees deal with energy, education, and the war on drugs. Efforts to make the committee system more efficient are often considered threats to the delicate balance of power within the chamber.

**TABLE 11–2 RULES ON COMMITTEE SERVICE IN THE HOUSE AND SENATE****House****Senate****Exclusive Committees****“A” Committees**

Members can usually serve on just one exclusive committee:

Appropriations  
Rules  
Ways and Means  
Commerce

Members can usually serve on no more than two A committees:

Agriculture, Nutrition, and Forestry  
Appropriations  
Banking, Housing, and Urban Affairs  
Commerce, Science, and Transportation  
Energy and Natural Resources  
Environment and Public Works  
Finance  
Foreign Relations  
Governmental Affairs  
Health, Education, Labor, and Pensions Judiciary

**Nonexclusive Committees****Super “A” Committees**

Members can usually serve on just two nonexclusive committees:

Agriculture  
Armed Services  
Banking and Financial Services  
  
Education and the Workforce  
International Relations  
Judiciary  
Resources  
Science  
Small Business  
Transportation and Infrastructure  
Veterans' Affairs

Members can serve on no more than one of the Super A Committees:

Appropriations  
Armed Services  
Finance  
Foreign Relations

**Exempt Committees****“B” Committees**

Members may serve on one exempt committee regardless of their other service:

House Administration  
Select Intelligence  
Standards of Official

Members may serve on one B Committee:

Budget  
Rules and Administration  
Small Business  
Veterans' Affairs  
Special Aging  
Select Intelligence  
Joint Economic Committee

**“C” Committees**

Members may serve on one or more C Committee:

Select Ethics  
Indian Affairs  
Joint Taxation  
Joint Library  
Joint Printing

NOTE: Senate and House party rules have further restrictions on committee service that may affect these rules.

**THE ROLE OF SENIORITY** Forty years ago, committee chairs determined the workload of committees, hired and fired staff, formed subcommittees, and assigned them jurisdictions, members, and aides. Chairs also managed the most important bills assigned to their committees. Since the mid-1970s, however, junior members have insisted on being given more authority. Subcommittee chairs have also become more independent. In recent years, there have also been moves to strengthen the powers of the party leaders and caucuses at the expense of committee chairs.

Most chairs are selected on the basis of the **seniority rule**; the member of the majority party with the longest continuous service on the committee becomes chair upon the retirement of the current chair or a change in the party in control of Congress. The seniority rule gives power to representatives who come from safe districts where one party is dominant and a member can build up years of continuous service. Conversely, the seniority rule lessens the influence of states or districts where the two parties are more evenly matched and where there is more turnover.

Although it is not uncommon for the party leadership to reward a junior member with a prestigious committee assignment, seniority has long been respected in Congress for several reasons: It encourages members to stay on a committee, it encourages specialization and expertise, and it reduces the interpersonal politics that would arise if several members of a committee sought to become chair. Under new rules adopted in the mid-1990s, however, both House and Senate Republicans agreed to limit committee chairs to serving no more than three consecutive terms.<sup>29</sup>

**INVESTIGATIONS AND OVERSIGHT** Committees do more than produce legislation. They also have two additional roles in making government work.

The first is the power to *investigate*. Congress conducts investigations to determine if legislation is needed, to gather facts relevant to legislation, to assess the efficiency of executive agencies, to build public support, to expose corruption, and to enhance the image or reputation of its members.<sup>30</sup> Hearings by standing committees, their subcommittees, or special select committees are an important source of information and opinion. They provide an arena in which experts can submit their views.

The second is the *oversight* power—the responsibility to question executive branch officials to see whether their agencies are complying with the wishes of the Congress and conducting their programs efficiently. Authorization committees regularly hold oversight hearings, and appropriations committees, exercising “the congressional power of the purse,” often use appropriations hearings to communicate committee members’ views about how agency officials should conduct their business. Cabinet members and agency heads have been known to dread the loaded questions of hostile members of Congress and to hate having to watch themselves on the evening news trying to explain why their agency made some mistakes.

**THE SPECIAL ROLE OF CONFERENCE COMMITTEES** Given the differences between the House and the Senate, it is not surprising that the version of a bill passed by one chamber may differ substantially from the version passed by the other. Only if both houses pass an absolutely identical measure can it become law. Most of the time, one house accepts the language of the other, but about 10 to 12 percent of all bills passed, usually major ones, must be referred to a **conference committee**—a special committee of members from each chamber that settles the differences between versions.<sup>31</sup> Both parties are represented, but the majority party has more members.

The proceedings of a conference committee are usually an elaborate bargaining process. When the revised bill is brought back to the two chambers, the conference report can be accepted or rejected (often with further negotiations ordered), but it cannot be amended. Conference members of each chamber must convince their colleagues that any concessions made to the other chamber were on unimportant points and that nothing basic to the original version of the bill was surrendered.

Conference committees have considerable leeway in reaching agreement, prompting President Ronald Reagan to note, “You know, if an orange and an apple went into conference consultations, it might come out a pear.”<sup>32</sup> Ordinarily, members are expected to end up somewhere between the different versions. On matters for which there is no



Senator Orrin Hatch (R-Utah), shown on the right, left his post as Chair of the Senate Judiciary Committee at the end of his third term in 2005.

#### **seniority rule**

A legislative practice that assigns the chair of a committee or subcommittee to the member of the majority party with the longest continuous service on the committee.

#### **conference committee**

Committee appointed by the presiding officers of each chamber to adjust differences on a particular bill passed by each in different form.



clear middle ground, members are sometimes accused of exceeding their instructions and producing an entirely new bill. For this reason, the conference committee has been called a “third house” of Congress and one of the most significant congressional institutions.<sup>33</sup>

It is not clear whether the House or the Senate wins more often in conference committees. On the surface, it appears that the Senate’s version wins more often, but this is partly because the Senate often acts on its legislation after the House. But by approving the initial bill first and thereby setting the agenda on an issue, the House often has more of an impact on the final outcome than the Senate.

**CAUCUSES** In contrast to conference committees, which are appointed by the House and Senate leadership to perform a specific legislative role, caucuses are best defined as informal committees that allow individual members to promote shared legislative interests. There are caucuses for House members only, for senators only, and for members of both chambers together. By the 1990s, according to one count, House members actually served on more informal caucuses than on committees and subcommittees.<sup>34</sup>

The growing diversity of the caucuses parallels the rest of society. They include the Black Caucus, Hispanic Caucus, Women’s Issues Caucus, Rural Health Caucus, Children’s Caucus, Cuba Freedom Caucus, Pro-Life Caucus, Homelessness Task Force, Urban Caucus, and Ethiopian Jewry Caucus. The diversity also parallels the fragmentation of interest groups, with caucuses on nearly every business and public interest issue—including steel, beef, wheel bearings, the Internet, mushrooms, mining, gas, sweeteners, wine, footwear, soybeans, animal rights, Chesapeake Bay, clean water, drug enforcement, adoption, the arts, energy, military reform, AIDS, and antiterrorism. There are also caucuses composed of friends of the Caribbean Basin, animals, human rights monitors, and Ireland.

## THE JOB OF THE LEGISLATOR

Membership in Congress was once a part-time job. Members came to Washington for a few terms, averaged less than five years of continuous service, and returned to their careers. Congressional pay was low, and Washington was no farther than a carriage ride from home.<sup>35</sup>

Congress started to meet more frequently in the late 1800s, pay increased, and being a member of Congress became increasingly attractive.<sup>36</sup> In the 1850s, roughly one-half of all House members retired or were defeated at each election; by 1900, the number who left at the end of each term had fallen to roughly one-quarter; by the 1970s, the number had fallen to barely a tenth. Even in the 1994 congressional elections, when Republicans won the House majority for the first time in 40 years, 90 percent of House incumbents who ran for reelection won.<sup>37</sup>

By the 1950s, being a member of Congress had become a full-time job and a long-term career. Members came to Washington to stay and began to exploit the natural advantages that come with running for reelection as an incumbent: name recognition, service to citizens back home, copious campaign funding, nearly unlimited access to the media, and free postage under the *franking privilege* for mailings back home. In 1954, for example, members of Congress sent 44 million pieces of mail back home. Fifty years later, the number will easily pass 500 million pieces. Include the amount of e-mail, and the average member of Congress is in touch with his or her district almost daily.<sup>38</sup>

The workday also got longer. According to a 1998 survey, most members reported that they worked more than 70 hours a week, dividing their time among committee and subcommittee hearings, floor debates, meetings with citizens and interest groups, and raising money for the next election. Members do not seem to think the job is too tough, at least not the 402 members who ran for reelection in 1998. Nor has job satisfaction declined: 96 percent of members reported that they were very or mostly satisfied with their jobs in 1998, and only 15 percent said the job had gotten less satisfying since they first entered Congress. There appears to be little softening of interest in holding these jobs, despite the high levels of public distrust in Congress as an institution.<sup>39</sup>

As members of Congress became attached to their careers, they began to abandon many of the norms that once guided their behavior in office.<sup>40</sup> The old norms were simple.

## PEOPLE & POLITICS *Making a Difference* ★★

### GENERATION X IN CONGRESS (HAROLD FORD JR., AND ADAM PUTNAM)

**A**s the two youngest members of Congress, Adam Putnam (R-Fla.) and Harold Ford, Jr. (D-Tenn.) care deeply about reengaging young Americans in politics. Both were elected in part on promises to give young Americans a stronger voice in debates about the future of programs such as Social Security, and both continue to work hard to connect with their generation on jobs and access to education.

Putnam was just 26 years old when he was elected to Congress in 2000. "I want to energize a whole new generation of young people to reengage in politics," Putnam says. You, know, Kennedy did it, Reagan did it, probably Clinton '92 did it. We've got to do a better job talking across generational lines."

Ford was just 26, too, when he was elected to Congress in 1996. Young people were a central part of his first campaign. He visited more than 100 schools and spoke to an estimated 40,000 to 50,000 high school students en route to a landslide victory. "We've grown up in a

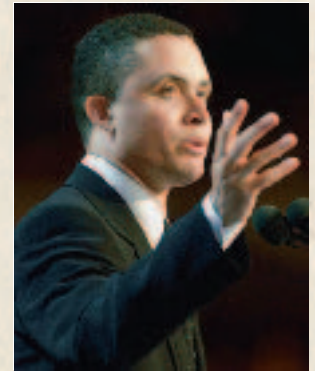
different world," his chief of staff explained to reporters when asked about Ford's view of politics. "We're more comfortable with diversity, with change, with new ideas and new attitudes."

Age does not create a shared agenda, however, Putnam opposes many of the issues that young Americans support, including abortion rights. He also rejected MTV's request to film his first campaign by saying he didn't want any "purple-hair yahoo" asking whether he wore "boxers or briefs." But he does support Social Security reform, which is a key issue for young Americans who do not believe the program will still be alive when they retire.

Putnam and Ford do believe they can make a difference in showing that age is no barrier to participation. "I'm not invited to a high school class to articulate



Adam Putnam



Harold Ford, Jr.

the merits of permanent normal trade relations with China," Putnam says. "I'm invited to classes to talk about why it's important for young people to get involved and how they can do it." Ford agrees. "Once you get young people to pay attention, you find that you've turned on a faucet that's hard to turn off." The fact that these two Gen X'ers are in Congress is no small part of showing young Americans that age is not a barrier to involvement at the very top of American politics.

Members were supposed to specialize in a small number of issues (the norm of specialization), defer to members with longer tenure in office (the norm of seniority), never criticize anyone personally (the norm of courtesy), and wait their turn to speak and introduce legislation (the norm of apprenticeship). As longtime House Speaker Sam Rayburn once said, new members were to go along in order to get along, and to be seen and not heard.

The new norms are equally simple. New members are no longer willing to wait their turn to speak or introduce legislation and now have enough staff to make their opinions known on just about any issue at just about any point in the legislative process. Although the norm of courtesy still lives on as members refer to each other with great respect, the new congressional career allows little time for the old norms of specialization, seniority, and apprenticeship. Members must take care of their electoral concerns first.

### Legislators as Representatives

Congress has a split personality. On the one hand, it is a *lawmaking institution* that writes laws and makes policy for the entire nation. In this capacity, all the members are expected to set aside their personal ambitions and perhaps even the concerns of their own constituencies. Yet Congress is also a *representative assembly*, made up of 535 elected officials who serve as links between their constituents and the national government (see Table 11-3). The dual roles of making laws and responding to constituents' demands force members to balance national concerns against the specific interests of their states or districts.

**TABLE 11–3 PROFILE OF THE 108TH CONGRESS, 2003–2005**

	<i>Senate (100)</i>	<i>House (435)</i>
<b>Party Affiliation</b>		
Republican	51	229
Democratic	48	205
Independent	1	1
<b>Sex</b>		
Male	86	373
Female	14	62
<b>Religion</b>		
Catholic	25	124
Jewish	11	26
Protestant	63	278
Other	1	7
<b>Average Age</b>	60	54
<b>Racial/Ethnic Minorities</b>	3	64
<b>Occupational Field</b>		
Law	60	161
Education	12	88
Business, banking	25	165
Agriculture	5	26
Journalism	6	11
Engineering	1	8
Real estate	3	30

SOURCE: *Congressional Quarterly Weekly*, January 25, 2003, pp. 190–193.

Individual members of Congress perceive their roles differently. Some believe they should serve as **delegates** from their districts. These legislators believe it is their duty to find out what “the folks back home” want and act accordingly. Other members see their role as that of **trustee**. Their constituents, they contend, did not send them to Congress to serve as mere robots or “errand runners.” They act and vote according to their own view of what is best for their district or state as well as the nation.

Most legislators shift back and forth between the delegate and trustee roles, depending on their perception of the public interest, their standing in the last and next elections, and the pressures of the moment. Most also view themselves more as free agents than as instructed delegates for their districts. And recent research suggests that they often *are* free, since about 50 percent of citizens are unaware of how their representatives voted on major legislation and often believe their representative voted in accordance with constituent policy views. Still, nearly everyone in Congress spends a lot of time building constituency connections, mending political fences, reaching out to swing voters, and worrying about how a vote on a controversial issue will “play” back home.<sup>41</sup>

### Legislators as Lawmakers

About 5,000 bills are introduced in the House every two years and as many as 3,000 in the Senate. Members of Congress cast as many as 1,000 votes each year.<sup>42</sup> When they vote, members of Congress are influenced by their own philosophy and values, their perceptions of their constituents’ interests, the views of their trusted colleagues and staff, their partisan ties, and party leaders, lobbyists, and the president.

#### delegate

An official who is expected to represent the views of his or her constituents even when personally holding different views; one interpretation of the role of the legislator.

#### trustee

An official who is expected to vote independently based on his or her judgment of the circumstances; one interpretation of the role of the legislator.



# CHANGING FACE OF AMERICAN POLITICS

## COMPARING MEMBERS

The *National Journal* is not the only publication to rate individual members of Congress. Interest groups often publish scorecards on key votes on important issues to their constituents. Consider how the U.S. Chamber of Commerce (conservative), the American Federation of Labor (AFL-CIO)

(liberal), the National Right to Life Committee (conservative), and the National Abortion and Reproductive Rights Action League (NARAL) (liberal) rated four members of Congress on votes taken leading up to the 2002 election:

	Senator Richard Lugar (R.-Ind.)	Senator Mark Dayton (D.-Minn.)	Representative David Dreier (R.-Calif.)	Representative Barney Frank (D.-Mass.)
Chamber of Commerce	95%	45%	100%	26%
AFL-CIO	31	100	11	100
National Right to Life	33	0	100	0
NARAL	0	100	0	100

SOURCE: *Congressional Quarterly Weekly*, April 19, 2003, p. 925.

**POLICY AND PHILOSOPHICAL CONVICTIONS** Members are influenced by their ideological beliefs most of the time. Their experiences and their attitudes about the role of government shape their convictions and help explain a lot of the differences in voting patterns.<sup>43</sup> A liberal on social issues is also likely to be a liberal on tax and national security issues. On controversial issues such as Social Security reform, tax cuts, or defense spending, knowing the general philosophical leanings of individual members provides a helpful guide both to how they make up their minds and how they will vote.

In 2003, the widely respected weekly report *National Journal* rated Barbara Boxer (D.-Calif.) as the most liberal senator and Pat Roberts (R.-Kansas) as the most conservative and rated John Conyers (D.-Mich.) and Pete Stark (D.-Calif.) as the most liberal representatives, while 13 members of the House tied as the most conservative. Although Democrats are more likely to be liberals and Republicans more likely to be conservatives, there are centrists in both parties. Almost all of the most liberal Democrats in the House and Senate come from western states, while almost all of the most conservative Republicans come from southern states.

**VOTERS** Rarely does a legislator consistently and deliberately vote against the wishes of the people back home, but a paradox is evident here. Members of Congress sometimes think that what they do and how they vote make a lot of difference to voters back home, even though most voters do not follow Congress closely.<sup>44</sup> Aside from periodic polls, members hear most often from the **attentive public**—citizens who follow public affairs carefully—rather than the general public. Nearly 70 percent of constituents say they have not visited, faxed, phoned, e-mailed, or written their member of Congress in the past four years.<sup>45</sup> Still, members of Congress are generally concerned about how they will explain their votes, especially as election day approaches. Even if only a few voters are aware of their stand on a given issue, this group might make the difference between victory and defeat.

**COLLEAGUES** Legislators are often influenced by the advice of their close friends in Congress. Their busy schedules and the great number of votes force them to depend on the advice of like-minded colleagues. In particular, they look to respected members of the committee who worked on a bill.<sup>46</sup> Legislators find out how their friends stand on an issue, listen to the party leadership's advice, and take the various committee reports into account. Sometimes members are influenced to vote one way merely because they know

### attentive public

Those citizens who follow public affairs carefully.

a colleague is on the other side of the issue. For some legislators, the state delegation (senators and representatives from their home state) reinforces a common identity.

A member may also vote with a colleague in the expectation that the colleague will later vote for a measure about which the member is concerned—called **logrolling**. Some vote trading takes place to build coalitions so that members can “bring home the bacon” to their constituents. Other vote trading reflects reciprocity in congressional relations or deference to colleagues’ superior information or expertise.

**CONGRESSIONAL STAFF** Representatives and senators used to be at a distinct disadvantage in dealing with the executive branch because they were overly dependent on information supplied by the White House or lobbyists. The complexity of the issues and increasingly demanding schedules created pressures for additional staff. Congress responded and gradually expanded its staffs, and this expansion has strengthened the role of Congress in the public policy process.

Because both chambers have roughly equal amounts of money for staff, Senate members and committees have much larger staffs than their House counterparts. About one-third of the House of Representatives staff and one-fourth of the Senate staff are based back home, where they help their bosses communicate with voters and provide constituency services and casework. (Helping people with a misplaced Social Security check or helping them qualify for veterans’ benefits are examples of casework provided by congressional offices.) Much of the work done in district offices is akin to a continuous campaign effort: generating favorable publicity, arranging for local appearances and newspaper interviews, scheduling, and contacting important civic and business leaders in the region.

Members rely heavily on the advice of congressional staffers. Staff members draft bills, do research, and are often involved in negotiating and coalition building. Staff specialists in policy areas sometimes deal on a day-to-day basis with their counterparts in the executive branch departments and with interest groups. With their direct access to the members of Congress they serve, these staff aides are often among the most influential people in Washington.

**PARTY** Members generally vote with their party. Whether as a result of party pressure or natural affinity, on major bills there is a tendency for most Democrats to be arrayed against most Republicans. Partisan voting has increased in the House since the early 1970s and has intensified even more since the 1994 elections. Indeed, party-line voting has been greater in recent years than at any time in recent decades. Party differences are stronger over domestic, regulatory, and welfare reform measures than over foreign policy or civil liberties issues. Ninety-eight percent of House Republicans, for example, voted to impeach Bill Clinton in a historic vote in late 1998; the same percentage of House Democrats voted *against* impeachment.

Congressional redistricting has helped increase partisanship in congressional voting. “Advances in computer-driven mapping capabilities have made an art form of the old-fashioned gerrymandering that occurs where congressional districts are redrawn after each decennial census.” Party operatives in the states can with great precision draw district lines to create relatively safe Democratic or Republican districts, “increasing the number of secure members answerable to only their own party’s primary votes.”<sup>47</sup>

As redistricting has created more safe seats, the House of Representatives has become more polarized. House Republicans have become more politically conservative and House Democrats more liberal. The House is more politically partisan than the Senate not because of personalities but largely because of these constitutional-political procedures. As House districts have become more distinctly and safely Republican or Democratic, the incentives for compromise have declined.

Party leaders in both chambers do their best to get their members to vote together. Republican leaders claim that cohesive voting is the only way Republicans can implement their party platform and satisfy the majorities who elected them in recent years. Senators are usually more independent, so party leaders in the Senate have a harder time maintaining party discipline than leaders in the House do.

#### **logrolling**

Mutual aid and vote trading among legislators.



*U.S. Senator James Jeffords of Vermont, on the steps of the Capitol with prominent Democrats the day before he left the Republican Party to become an Independent. Jeffords's decision gave the Democrats control of the Senate until 2003. He left the Republican Party because he believed it had grown too conservative and was putting undue pressure on him to vote the party line.*

**INTEREST GROUPS** Interest groups use Political Action Committees (PACs) to contribute campaign funds to congressional candidates. These PACs give disproportionately to incumbents; at least 70 percent of PAC contributions have gone to incumbents in recent years.<sup>48</sup> In addition to their role as financiers of elections, interest groups provide important information for making laws.

Interest groups not only watch and try to influence national legislators but also monitor one another. If a member of Congress tries to insert a “special interest” measure into an appropriations bill that is especially favorable to a particular interest, for example, opposing interest groups are almost certain to lobby for the measure’s defeat. “The result,” says Senator Joe Lieberman of Connecticut, “is that everyone on Capitol Hill is keeping a close eye on everyone else, creating a self-adjusting system of checks and balances.”<sup>49</sup>

Interest groups can also be effective when they mobilize grassroots activists and rally various constituencies to lobby their home state members of Congress. For example, higher education lobbying groups have effectively mobilized students and educators to write and call members of Congress on behalf of student aid and related provisions in various measures before Congress.<sup>50</sup> And tobacco companies spent large sums to fight taxes on cigarettes. Although most members of Congress reject the popular perception that interest groups “buy” their votes, political contributions certainly do influence the parties and help provide access to members of Congress.

**THE PRESIDENT** Through effective use of their constitutional and political powers, presidents are usually partners with Congress in the legislative process. In fact, the president is often the single most important (though not always decisive) force in determining the course of legislation.

Members of Congress, however, are invariably reluctant to admit that they are influenced by pressure from the White House. On domestic issues, legislators generally say they are more likely to be influenced by their own convictions or by their constituents than by what the White House wants. But presidents and their aides work hard to influence public opinion and to win members over to the president’s point of view. For



example, despite a Democratic majority in the Senate and a razor-thin Republican majority in the House, George W. Bush won an impressive 87 percent support from Congress on the 120 votes on which he took a clear position in 2001. That was the best success mark since 1965, when Lyndon Johnson won 93 percent of the key votes.<sup>51</sup>

Bush set the mark in part by taking fewer strong positions on legislation. Whereas Bill Clinton took a position on an average of 86 House votes a year during his eight years in office, Bush took a position on only 43 House bills in 2001. Moreover, when Bush did take a position, it was mostly in favor of bills that Congress was about to pass. Nevertheless, Bush's support scores remained high; in 2002, he won 88 percent of his votes, while in 2003, he won 78 percent.

For a variety of reasons, especially because of the tendency of the nation to rally around the president in time of foreign crisis, presidents have more influence on how members of Congress vote on foreign policy or national security issues than on domestic policy.<sup>52</sup> President George W. Bush benefited from a bipartisan coalition that passed the resolution authorizing the use of military force against terrorist forces in Afghanistan, for example.

## THE LEGISLATIVE OBSTACLE COURSE

Congress operates under a system of multiple vetoes. The framers intentionally dispersed powers so that no would-be tyrant or majority could accumulate enough authority to oppress the nation. Follow a bill through the legislative process, and this dispersal of power is clear (see Figure 11–2). The procedures and rules of the Senate differ somewhat from those of the House, but in each chamber, power is fragmented and decentralized.

### How Ideas Become Bills

Members introduce bills for different reasons. Although many bills are introduced to help win reelection or higher office, members of Congress do care about the national interest. As Democratic representative Tim Penny of Minnesota said of his decision to run for Congress, “I was young and idealistic. . . . I wanted to show people that government can work and that partisanship doesn’t have to be the dominant force in politics, that interest groups don’t have to be a deciding factor on every vote.”<sup>53</sup>

Members also care about making a personal difference. “Politicians are human beings,” said Massachusetts representative Joe Kennedy II, whose father was assassinated with a handgun during the 1968 presidential campaign and whose cousin suffered from bone cancer. “When there is a degree of very personal pain that one feels toward an issue—it might be gun control or my uncle’s interest in fighting cancer—commitment level is higher and your willingness to compromise is lower.”<sup>54</sup>

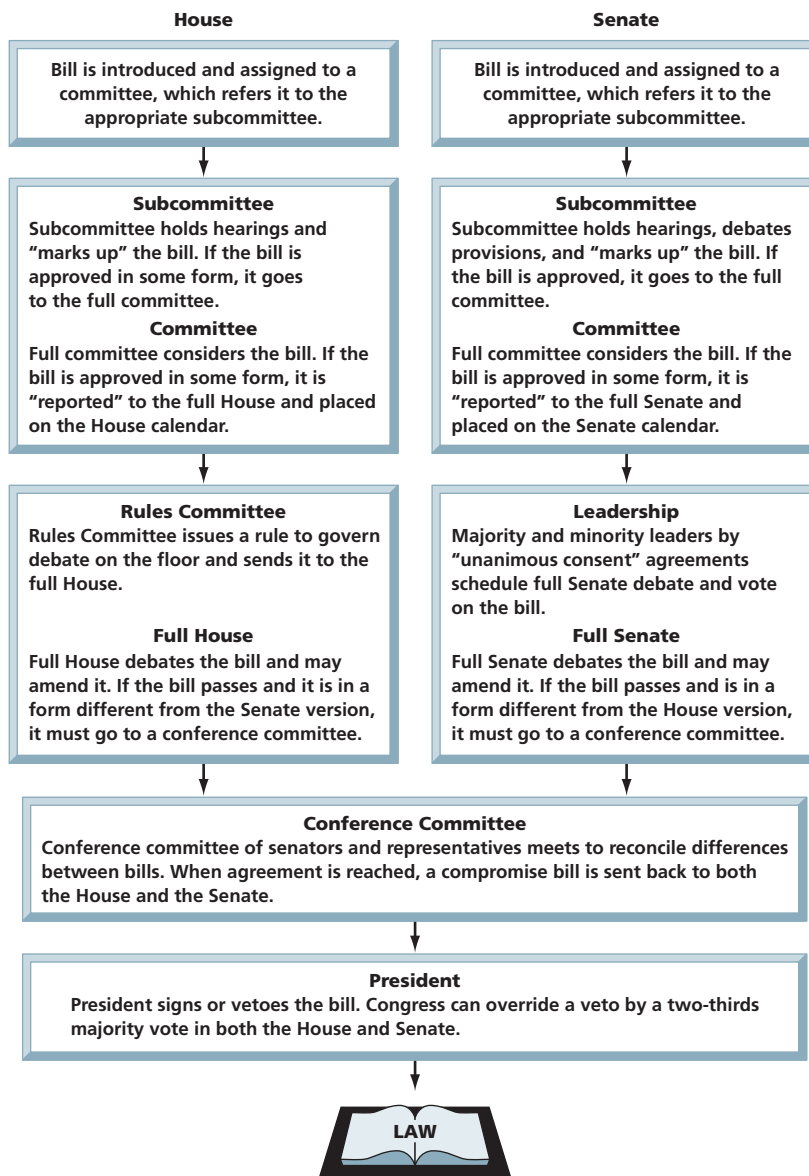


FIGURE 11–2 How a Bill Becomes a Law.

## How Bills Become Laws

The odds against a bill's becoming a law are great, but Congress still produces an extraordinary amount of legislation. In 2003, a typical year, members of Congress introduced a total of 7,000 bills (4,600 in the House and 2,400 in the Senate). Of those, committees in one or the other chamber sent 727 bills to the floor for further consideration, of which the Senate passed 590 and the House passed 674; 174 of those were approved by both chambers and signed into law. Congress is obviously very selective about which bills survive.<sup>55</sup>

A bill must win many small contests on the way to final passage. There are four broad steps from beginning to end: (1) introduction, which involves putting a formal proposal before the House or the Senate; (2) committee review, which involves holding a hearing and “marking up” the bill; (3) floor debate and passage, which means getting on the legislative calendar, passing once in each chamber, surviving a conference to iron out any differences between the House and Senate versions, and passing once again in each chamber; and (4) presidential approval.

**INTRODUCING A BILL** House members introduce a bill by placing it into a mahogany box (called the hopper) on a desk at the front of the House chamber; senators introduce a bill by either handing it to the clerk of the Senate or by presenting it to their colleagues in a floor speech. In the more informal Senate, members sometimes short-circuit the formalities by offering a bill as an amendment to pending legislation. A bill that comes from the House is always designated H.R. (House of Representatives) followed by its number, and a bill from the Senate is always designated S. (Senate) followed by its number. Although presidents often recommend legislation to Congress, all bills must be introduced by a member of the House or Senate.

**COMMITTEE REVIEW** Once a bill is introduced in either chamber, it is “read” into the record as a formal proposal and referred to the appropriate committee—tax bills to Ways and Means or Finance; farm bills to Agriculture; technology bills to Science, Space, and Technology; small business to Small Business; and so forth. The parliamentarian in each chamber decides where to send each bill.

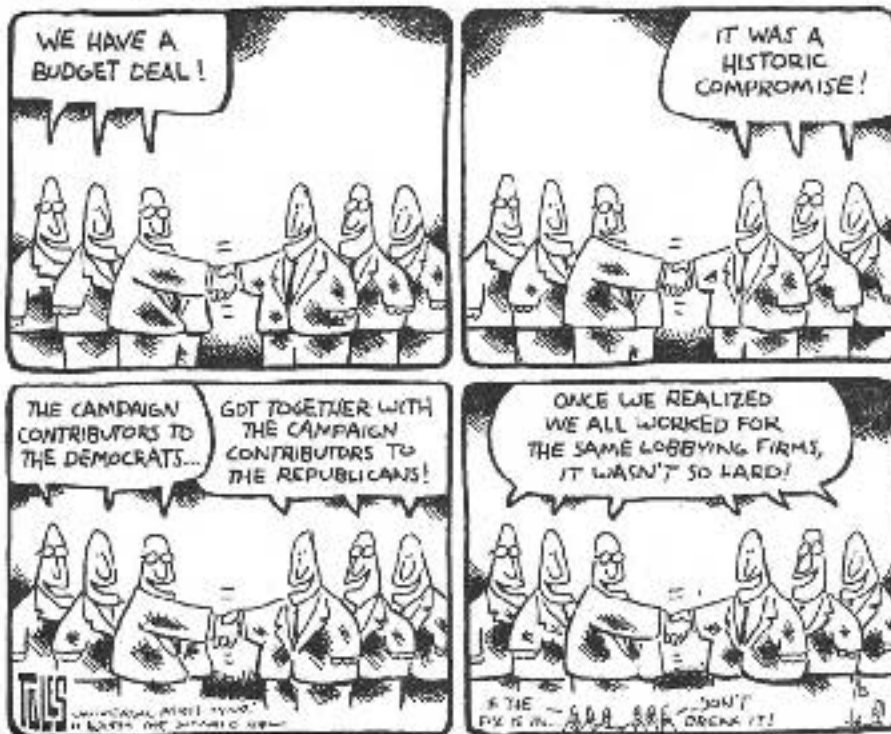


### WHO CAN KILL A BILL

The complexity of the congressional system provides a tremendous built-in advantage for opponents of any measure. Multiple opportunities to kill a bill exist because of the dispersion of influence. At a dozen or more points, a bill may be stopped or allowed to die (inaction is the same as killing a bill). Sponsors of a bill must win at every step; opponents need to win only once. Whether good or bad, a proposal can be delayed or rejected by any one of the following:

1. The chair of the House subcommittee
2. The House subcommittee as a whole
3. The chair of the House standing committee
4. The House standing committee as a whole
5. The House Rules Committee
6. The majority of the House
7. The chair of the Senate subcommittee
8. The Senate subcommittee as a whole
9. The chair of the Senate standing committee
10. The Senate standing committee as a whole
11. A senator or senators who mount a filibuster
12. The majority of the Senate
13. The floor leaders in both chambers
14. The House-Senate conference committee, if the chambers disagree
15. The president (by veto)

### BELOW THE BELTWAY



## ★ ★ YOU DECIDE

### SHOULD ALL PRESIDENTIAL NOMINEES GET A VOTE?

Under current Senate rules, there are times when an executive or judicial appointee can be stalled indefinitely through personal holds and the threat of a filibuster. Both the Clinton and Bush administrations argued that all nominees, no matter how controversial, should have the right to receive a final up-or-down majority vote by the Senate. Holds and filibusters are particularly visible during periods in which the White House and Senate are controlled by different parties, but there are occasions when senators stall nominations from their own president. Having gone through the rigors of the appointments process, which is described in more detail in Chapter 13, nominees often argue that simple fairness requires a final vote one way or the other.

**The Referral Decision** Although most bills are referred to a single committee, particularly complex bills may be referred simultaneously or sequentially to multiple committees. President Bush's proposed department of homeland security bill was so complicated and touched so many agencies that it was managed by a temporary special committee in the House. The bill was referred to at least ten committees, including Judiciary, Ways and Means, and Government Reform, all of which held hearings on specific provisions of the largest government reorganization since the Department of Defense was created in 1947. The bill went into the House as a 35-page proposal and came out almost 500 pages long. Committees and their subcommittees are responsible for building a legislative record in support of a given bill. This *legislative record* also helps the president and federal courts interpret what Congress intended.

**Markup** Once a committee or subcommittee decides to pass the bill, it "marks it up" to clean up the wording or amend its version of the bill. The term *markup* refers to the pencil marks that members make on the final version of the bill. Once markup is over, the bill must be passed by the committee or subcommittee and forwarded to the next step in the process. If it is passed by a subcommittee, for example, it is forwarded to the full committee; if it is passed by a full committee in the House, it is then forwarded to the House Rules Committee for a rule that will govern debate on the floor; if it is passed by a full committee in the Senate, it is forwarded to the full chamber.

**Discharge** Although most bills die in committee without a hearing or further review, a bill can be forced to the floor of the House through a **discharge petition** signed by a majority of the membership. In 2002, for example, House members were able to collect enough signatures to discharge the Rules Committee on a campaign finance reform bill that had been stalled for six months. Because most members share a strong sense of reciprocity, or mutual respect, toward the work of other committees, few discharge petitions are successful. The Senate does not use discharge petitions.

**FLOOR DEBATE AND PASSAGE** Once reported to the full chamber directly from committee in the Senate or through the Rules Committee in the House, a bill will either be scheduled for floor action or dropped entirely, depending on the party leadership and the amount of time left in the session. The busiest time of the year occurs just before the end of a session, usually in late September or early October, when bills must be passed or die.

In the Senate, it is not uncommon for members to propose **riders**, or amendments, that are unrelated to the bill on which they want to ride. Senators use riders to force the president to accept legislation attached to a bill that was otherwise popular, because the president has to either accept the *entire* bill or to veto it. The number of riders attached to appropriations bills has increased in recent years. Democrats and Republicans alike use riders to increase spending in their states and districts.<sup>56</sup>

Except for tax bills, the House and Senate discuss bills simultaneously rather than waiting for one to act first. If only one chamber passes a bill at the end of the two years that comprise each Congress, it is dead and must be reintroduced in the next Congress. If both houses pass bills on the same subject but there are differences between the bills—and there often are—the two versions must go to a conference committee for *reconciliation*. If a bill does not make it through both chambers in identical form in the same two-year Congress, it must begin the entire process again in the next Congress.

When a bill has passed both houses in identical form, it goes to the president, who may *sign* it into law or *veto* it. If Congress is in session and the president waits ten days (not counting Sundays), the bill becomes law *without* his signature. If Congress has adjourned and the president waits ten days without signing the bill, it is defeated by what is known as a **pocket veto**. After a pocket veto, the bill is dead. Otherwise, when a bill is vetoed, it is returned to the chamber of its origin by the president with a message explaining the reasons for the veto. Congress can vote to **override** the veto by a two-thirds vote in each chamber, but assembling such an extraordinary majority is often difficult.

#### discharge petition

Petition that, if signed by a majority of the members of the House of Representatives, will pry a bill from committee and bring it to the floor for consideration.

#### rider

A provision attached to a bill—to which it may or may not be related—in order to secure its passage.

#### pocket veto

A veto exercised by the president after Congress has adjourned; if the president takes no action for ten days, the bill does not become law and is not returned to Congress for a possible override.

#### override

An action taken by Congress to reverse a presidential veto, requiring a two-thirds majority in each chamber.



## The Importance of Compromise

Since it takes a majority vote in two chambers of Congress and the signature of the president before a bill becomes a law, sponsors of new legislation have to be willing to compromise. One tactical decision at the start is whether to push for action in the Senate first, in the House first, or in both simultaneously. For example, if it appears that the Senate is not likely to approve a bill, its sponsors may seek passage in the House and hope that a sizable victory there will spur the Senate into action. Another tactic concerns the committee that will consider a bill. Normally, referral to a committee is automatic, but sometimes sponsors have discretion. A bill that involves more than one jurisdiction can be written in such a way that it may go to a committee that will look on it more kindly.<sup>57</sup>

## AN ASSESSMENT OF CONGRESS

More than two centuries after its creation, Congress is a larger, more vital, and very different kind of institution from the one the framers envisioned. Yet most of its major functions remain the same, and their effective exercise is crucial to the health of our constitutional democracy. Even in the twenty-first century, we still look to Congress to make laws, raise revenues, represent citizens, investigate abuses of power, and oversee the executive branch.

Although most incumbents are easily reelected, most campaign constantly to stay in office, creating what some observers have called the “permanent campaign.” Members appear driven by their desire to win reelection, so that much of what takes place in Congress seems mainly designed to promote reelection. These efforts usually pay off for members of Congress: Members who seek reelection almost always win. At the same time, these efforts also pay off for our democracy. Members’ concern with reelection fosters *accountability* and the desire to please the voters.

Yet, the permanent campaign clearly hinders legislative progress. In an institution where most members act as individual entrepreneurs and consider themselves leaders,

### ★ THINKING IT THROUGH

The Constitution requires the Senate to give its advice and consent on nominations, but not a final vote. Senators argue that controversial nominees demand particularly close attention because of the potential harm they could do once in office, particularly if they hold lifetime appointments in the federal courts. Moreover, they argue that holds and filibusters do not prevent an up-or-down vote if the Senate can muster the 60 votes to remove a hold and end a filibuster. These ten extra votes are more difficult to find, especially when the Senate is closely divided between the two parties, but the process ensures that controversial nominees face an additional check before taking their posts.



On Tuesday, September 11, 2001, the leadership of the House of Representatives and the Senate gathered on the steps of the Capitol with other congressional members in a gesture of unity after the terrorist attacks.



### RUNNING FOR CONGRESS

Deciding to run for Congress involves a variety of calculations. Potential candidates need to decide whether they want to take on an entrenched incumbent (difficult), run for an open seat (easier), or take on a vulnerable incumbent (easier still). They also need to ask whether they have enough funding, name recognition, and campaigning ability to mount a credible campaign, and whether their beliefs fit the prevailing opinions of their district. Once they have made the decision to run, candidates must also decide where to spend their money, how to spend their time, and what issues to emphasize. As the simulation on running for Congress shows, winning against incumbents is not easy, which helps explain why so many incumbents are reelected.

Go to Make It Real: Running for Congress.

the task of providing institutional leadership is increasingly difficult. With limited resources, and only sometimes aided by the president, congressional leaders are asked to bring together a diverse, fragmented, and independent institution. The congressional system acts only when majorities can be achieved. That the framers accomplished their original objective—creating a body that would not move with imprudent haste—has been generally well realized.

Newly elected presidents and members of Congress always arrive in Washington enthusiastically ready to enact the people's wishes. But they find that governing is invariably tougher and slower than they expected because government deals with complex issues about which there is often little consensus. Building policy majorities is hard because complex problems generate complex solutions, and the structure of Congress requires supermajorities to agree to serious changes. Thus the president's veto, the filibuster, and the use of holds and legislative riders all make consensus more difficult to find.

Criticism of Congress—its alleged incompetence, its overresponsiveness to organized interests, its inefficiencies, its partisan character—is difficult to separate from the context of policy preferences and democratic procedures. Sometimes criticism tells us more about the critic than it does about the effectiveness of Congress. Constitutional democracy is not the most efficient form of government. Congress was never intended to act swiftly; it was not created to be a rubber stamp or even a cooperative partner for presidents. Its greatest strengths—its diversity and deliberative character—also weaken its position in dealing with the more centralized executive branch.

The framers would not be troubled by the lack of action, however. By dividing power, they hoped to control it. The odds against action are high precisely because the framers did not want any one branch of the government to become a threat to individual liberty.

## S U M M A R Y

1. Congress plays a crucial role in our system of shared powers, controlling key decisions and constraining presidents. Yet over time, Congress has lost some influence as the presidency has gained influence. In recent decades, however, Congress has become more capable as a policy-making competitor for presidents. Redistricting and reapportionment have shaped a Congress that somewhat more accurately reflects the population.
2. The most distinctive feature of Congress is its bicameralism, which the framers intended as a moderating influence on partisanship and possible error. Each chamber has a few distinctive functions. The organization and procedures of the two houses also differ slightly, as do their political environments.
3. Congress performs these functions: representation, lawmaking, consensus building, overseeing the bureaucracy, policy clarification, and investigating. The Senate also confirms or denies presidential appointments and participates in the ratification of treaties.
4. Congress manages its workload through a leadership system that is different in both chambers. The House is led by the Speaker, a majority and a minority leader, and whips in each party, while the Senate is led by a majority and a minority leader. The Senate is more difficult to lead because of its greater individualism, which is sometimes expressed through the use of holds and filibusters to control the legislative process.
5. Most of the work in Congress is done in committees and subcommittees. Congress has attempted in recent years to streamline its committee system and modify its methods of selecting committee chairs. Seniority practices are still generally followed. Subcommittees are important. They can prevent or delay legislation from being enacted. But there are numerous other stages where bills can be killed, making it easier to stop legislation than to enact it.
6. As a collective body, Congress must attempt to accomplish its tasks even as most of its members serve as delegates or trustees for their constituents. When they vote, members are influenced by their philosophy and values, their perceptions of constituents' interests, and the views of trusted colleagues and staff, partisan ties and party leaders, lobbyists, and the president.
7. The members of Congress do an excellent job of representing the values and views of most of their constituents. But they are cautious about enacting proposed measures by their own colleagues or the legislative agenda put forward by presidents. Most proposed legislation dies for lack of majority support.
8. Members of Congress are motivated by the desire to win reelection, and much of what Congress does is in response to this motive. Members work hard to get favors for their districts, to serve the needs of constituents, and to maintain a high visibility in their districts or states. Incumbents have advantages that help explain their success at reelection: They have greater name recognition, they have large staffs, they are much better able to raise campaign money, and they have greater access to the media.
9. A bill becomes a law through a process that involves many opportunities for defeat. Although all formal bills are referred to committees for consideration, very few receive a hearing, even fewer are marked up and sent to the floor, and fewer still are enacted by both chambers and signed into law by the president. In

addition, the legislative obstacle course sometimes involves filibusters, riders, holds, and the occasional override of a presidential veto.

10. Individual members of Congress are more popular than the institution. Con-

gress is criticized for being inefficient, unrepresentative, unethical, and lacking in collective responsibility. Yet criticisms of Congress are difficult to separate from the context of policy preference and

democratic procedures. Congress's greatest strengths—its diversity and its deliberative character—also contribute to its weaknesses.

## KEY TERMS

reapportionment	majority leader	filibuster	delegate
redistricting	minority leader	cloture	trustee
gerrymandering	whip	senatorial courtesy	attentive public
safe seat	party caucus	standing committee	logrolling
incumbents	closed rule	special or select committee	discharge petition
bicameralism	open rule	joint committee	rider
enumerated powers	president pro tempore	seniority rule	pocket veto
Speaker	hold	conference committee	override

## FURTHER READING

- JOEL D. ABERBACH, *Keeping a Watchful Eye: The Politics of Congressional Oversight* (Brookings Institution Press, 1990).
- E. SCOTT ADLER, *Why Congressional Reforms Fail: Reelection and the House Committee System* (University of Chicago Press, 2002).
- SARAH A. BINDER AND STEVEN S. SMITH, *Politics or Principles? Filibustering in the United States Senate* (Brookings Institution Press, 1997).
- SARAH A. BINDER, *Stalemate: Causes and Consequences of Legislative Gridlock* (Brookings Institution Press, 2003).
- BILL BRADLEY, *Time Present, Time Past: A Memoir* (Knopf, 1996).
- DAVID W. BRADY AND CRAIG VOLDEN, *Revolving Gridlock: Politics and Policy from Carter to Clinton* (Westview Press, 1998).
- ADAM CLYMER, *Edward M. Kennedy: A Biography* (Morrow, 1999).
- ROGER H. DAVIDSON AND WALTER J. OLESZEK, *Congress and Its Members*, 8th ed. (CQ Press, 2002).
- CHRISTOPHER J. DEERING AND STEVEN S. SMITH, *Committees in Congress*, 3d ed. (CQ Press, 1997).
- LAWRENCE C. DODD AND BRUCE J. OPPENHEIMER, EDS., *Congress Reconsidered*, 5th ed. (CQ Press, 1993).
- RICHARD F. FENNO JR., *Home Style: House Members in Their Districts* (Little, Brown, 1978).
- RICHARD F. FENNO JR., *Learning to Govern: An Institutional View of the 104th Congress* (Brookings Institution Press, 1997).
- RICHARD F. FENNO JR., *Senators on the Campaign Trail: The Politics of Representation* (University of Oklahoma Press, 1996).
- MORRIS P. FIORINA, *Congress: Keystone of the Washington Establishment*, 2d ed. (Yale University Press, 1989).
- PAUL HERRNSON, *Congressional Elections*, 3d ed. (CQ Press, 2000).
- JOHN R. HIBBING AND ELIZABETH THEISS-MORSE, *Congress as Public Enemy: Public Attitudes Toward American Political Institutions* (Cambridge University Press, 1995).
- GODFREY HODGSON, *The Gentleman from New York: Daniel Patrick Moynihan* (Houghton Mifflin, 2000).
- LINDA KILLIAN, *The Freshmen: What Happened to the Republican Revolution?* (Westview Press, 1998).
- FRANCES E. LEE AND BRUCE I. OPPENHEIMER, *Sizing Up the Senate: The Unequal Consequences of Equal Representation* (University of Chicago Press, 1999).
- JOSEPH I. LIEBERMAN, *In Praise of Public Life* (Simon & Schuster, 2000).
- TOM LOFTUS, *The Art of Legislative Politics* (CQ Press, 1994).
- JANET M. MARTIN, *Lessons from the Hill: The Legislative Journey of an Education Program* (St. Martin's Press, 1993).
- DAVID R. MAYHEW, *America's Congress: Actions in the Public Sphere, James Madison Through Newt Gingrich* (Yale University Press, 2002).
- BARBARA MIKULSKI ET AL., *Nine and Counting: The Women of the Senate* (Morrow, 2000).
- WALTER J. OLESZEK, *Congressional Procedures and the Policy Process*, 4th ed. (CQ Press, 1995).
- NORMAN J. ORNSTEIN, THOMAS MANN, AND MICHAEL MALBIN, *Vital Statistics on Congress, 2000–2002* (AEI Press, 2002).
- RONALD M. PETERS JR., ED., *The Speaker: Leadership in the U.S. House of Representatives* (CQ Press, 1995).
- DAVID E. PRICE, *The Congressional Experience: A View from the Hill* (Westview Press, 1993).
- NICOL RAE AND COLTON CAMPBELL, EDS., *New Majority or Old Majority: The Impact of Republicans on Congress* (Rowman & Littlefield, 1999).
- WARREN B. RUDMAN, *Combat: Twelve Years in the U.S. Senate* (Random House, 1996).
- BARBARA SINCLAIR, *Unorthodox Lawmaking: New Legislative Processes in the U.S. Congress*, 2d ed. (CQ Press, 2000).
- DARVELL M. WEST, *Patrick Kennedy: The Rise to Power* (Prentice Hall, 2001).