Legislative Guide

Chapter 1: Legislative Process

Southern Association of Student Financial Aid Administrators

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The Legislative Process:
How a Bill Becomes Law

It is essential to have a basic understanding of the legislative process if one hopes to have an influence on the content of the bills passed by Congress. For a bill to be passed by Congress, it has to find its way through procedures in both the House and Senate. Only if a bill is successfully processed through the many steps required by both bodies for legislation, will it have the opportunity of becoming a law.

Introduction of Bills

Any House or Senate member may introduce any one of several types of bills or resolutions, at anytime when the respective house is in session. Each bill is numbered consecutively in the order it is introduced and labeled with the sponsor's name. Bills are designated by a number preceded by "H.R." (in the House) and "S." (in the Senate). This is the form for most legislation. Joint Resolutions, designated as "H.J. Res.", are usually subject to the same procedures and statutes that have been initiated as bills by joint resolutions and vice versa. Concurrent Resolutions are labeled "H Con. Res." Or "S. Con Res." and are used to express the opinion of Congress and to take joint action. Resolutions, designated as "H. Res.", or "S. Res.", are used for matters concerning either house alone.

Resolutions

Joint Resolutions
Joint resolutions may originate either in the House or the Senate. There is little practical difference between a bill and a joint resolution and both are generally subject to the same procedures and become law in the same manner as bills.

Concurrent Resolutions
Matters affecting the operations of both the House of Representatives and Senate are usually initiated by means of concurrent resolutions. Once approved by both the House of Representatives and Senate, they are signed by the Clerk of the House and the Secretary of the Senate. They are not presented to the President for action.

Simple Resolutions
A matter concerning the operation of either the House of Representatives or Senate alone is initiated by a simple resolution. They are not presented to the President for action.

Committee Action

The most important phase of the legislative process is consideration by the committee to which the bill is assigned. After the bill is referred to the appropriate committee, the chairman assigns it to a subcommittee.

Usually the first step in this process is a public hearing where the committee members hear witnesses representing various viewpoints on the measure.

After hearings are completed, the bill is considered in a session that is popularly known as the "mark-up" session. Members of the committee study the viewpoints presented in detail. Amendments may be offered to the bill, and the committee members vote to accept or reject these changes.

The committee stage is the point at which it is most effective to contact your Senators or Representatives to inform them of your stand on the legislation. This is when you have the best opportunity to make a difference and to be heard by your representative. The other members of the committee and subcommittee will also be more receptive at this time to concerned opinions from people outside their own district or state.

Essential to the consideration of any bill in the House of Representatives is the opinion of the majority leadership. The Speaker of the House, Majority Leader, and Majority Whip wield tremendous influence over the Committee and Subcommittee Chairmen. The majority leadership exercises its power by setting the legislative agenda and framing the rules governing debate and amendments. In most cases, serious consideration of any legislation can be significantly expedited or impaired by the will of the majority leadership.

The subcommittee's deliberations are the most important stage of the legislative process. Chances for a bill's passage are quickly determined, and failure to act on a bill is equivalent to killing it. If a bill is to proceed very quickly, the subcommittee may request documents from the executive department or agencies. Detailed study of the proposed legislation is made, and hearings are scheduled and interested parties, at the discretion of the Chairman, are invited to testify. The subcommittee then analyzes the bill and reports its amendments and its recommendations for further action to the full committee.

At this point, the full committee meets in "markup" sessions to discuss the bill in detail, consider other amendments, and decide whether or not to report the legislation to the full House or Senate. The committee can recommend the bill with or without amendments, order it unfavorably reported, or table the bill, which effectively kills it.

When the committee sends a bill to the full House or Senate, it explains its reasons in a written statement called a report. This report describes the purpose and scope of the measure and the reasons for recommended approval. Committee members opposing the legislation often include minority or dissenting statements. The committee report is viewed by courts and administrative agencies as an important indication of Congressional intent in the proposed legislation.

Floor Consideration

When the bill is reported by the full Committee, it is placed on the proper calendar for consideration by the full House or Senate. Before floor consideration by the House of

Representatives, the bill must first pass through the Rules committee. This committee determines how long floor debate will be and what type of amendments will be allowed to be proposed. The Senate has no Rules committee and the length of debate on any bill on the Senate floor is unrestricted unless passed by a two-thirds vote of the Senate.

In both Houses, the bill is debated at length. The proponents and opponents present their views to acquaint the members, as well as the public, with the issue involved. Amendments are frequently offered to make the measure more acceptable. While considering a bill, the Congress may enter various parliamentary motions to determine members' sentiments with respect to the pending legislation. The measure may be postponed to some future date or referred again for more consideration to the committee from which it was reported.

After Passage

If the bill is voted on and passed in either house, it is then sent to the other chamber and is referred to the committee having jurisdiction unless it has been unanimously accepted in its current form. The entire committee and subcommittee processes are then repeated.

If there are substantial differences between the House and Senate versions of a given bill, the measure is sent to a conference committee comprised of members of both bodies. The committee tries to adjust differences in the two versions and report its agreement back to the House and Senate. If a compromise cannot be reached, and the bill is rejected in either chamber, it is dead unless it is again sent back to the conference. If, however, the bill is agreed to in identical form by both House and Senate, it is signed by the Speaker of the house and the President of the Senate and is sent to the President.

If the President approves of the bill and signs it, the bill becomes law. It may also become law without his signature if he does not return it, with his objections, to the Congress within ten days. The President can also veto the bill by refusing to sign and returning it within ten days. If Congress takes no further action, the bill dies. Congress, however, can attempt to override the President's veto and enact the bill. With a two-thirds vote of both house and Senate, the veto is overridden and the bill becomes law. Otherwise the bill is dead.

Detailed resources about the legislative process may be found for the Senate at: http://www.senate.gov/learning/index.cfm and for the House at: http://www.house.gov/house/Tying_it_all.html.

Appropriation and Authorization Bills

Any legislation that requires federal funding must go through two processes: authorization and appropriation. The first without the second is meaningless. If only limited funds are appropriated by Congress, a program can be so restricted that it cannot get off the ground.

Authorization bills establish, continue or modify federal programs. These bills generally authorize a program for specific length of time, specify its general aim and conduct, and unless "open-ended", puts a ceiling on monies that can be used to finance it. Authorization is usually enacted before an appropriation bill is passed.

Appropriations bills provide funding for the programs that have been authorized each year. Recently the pattern for many actions has been that the President asks for less than has been provided for by the current year, the authorizing committees add to the President's requests and Congress appropriates somewhat less than has been authorized. Some authorization laws provide spending directly. Currently, well over half of federal spending now goes to programs for which the authorizing legislation itself creates budget authority. Such spending is referred to as direct or mandatory spending and includes funding for most major entitlement programs.

Discretionary spending, which includes most of the federal financial programs, now makes up only about one-third of all federal expenditures. Appropriations are generally for one year in length but can be multi-year.

An appropriations bill grants the actual monies approved by the authorization bill, but not necessarily to the total permissible under the authorization bill.

The Budget Process

The Annual Appropriations Process

Congress plays an important role in formulating the federal budget. The Constitution grants the "power of the purse" to Congress, but it does not establish any specific procedure for budgetary legislation. It is important to understand the process in order to contribute to discussions of national spending priorities.

The federal budget cycle begins each year with the preparation and submission to Congress of the President's budget. The President's budget is only a request to Congress; Congress is not required to adopt the recommendations. Nevertheless, the President's budgetary proposals often guide congressional revenue and spending decisions, though the extent of the influence varies from year to year and depends more on political and fiscal conditions than on the legal status of the budget.

In response to the President's budget proposal, Congress generally holds hearings to question Administration officials about the budget, and then proceeds to develop its own budget resolution. The budget resolution is a “concurrent” congressional resolution, not an ordinary bill, and does not go to the President for his signature or veto. It also requires only a majority vote to pass, and is one of the few pieces of legislation that cannot be filibustered in the Senate. The final budget resolution is supposed to be passed by April 15, but it often takes longer.

The congressional budget resolution itself is a very simple document. It consists of a single table of numbers, which states how much Congress is allowed to spend in each of 20 spending categories (known as budget “functions”) and how much total revenue the government will collect, for each of the next five or more years. The Congressional Budget Act requires that the resolution cover a minimum of five years; Congress often chooses to develop a 10-year budget. The difference between the spending ceiling and the revenue floor represents the deficit (or surplus) expected for that year.

While it does not have the force of law, the concurrent budget resolution is the central part of the budget process in Congress. It is an agreement between the House and Senate that establishes an outline for all subsequent budgetary actions, and has a coordinating effect on the efforts of other committees.

There is a two-step allocation procedure; first, the spending totals in the budget resolution for the upcoming fiscal year are distributed to 2 appropriations committees; then, each committee divides the amount allocated to it among its programs or up to 13 subcommittees.

The budget resolution also provides a guideline for the overall level of revenues, but not for their composition. Committees with jurisdiction over revenues, entitlements, or other mandatory spending not directly controlled though the annual appropriations process are then responsible for reporting any necessary legislation to their respective chamber to insure that revenue and spending conform to these allocations.

By custom, the House initiates all appropriations measures, although the Senate may amend them as it sees fit. These appropriations bills are constrained by the total amount allocated under the budget resolution as well as by the guidelines established separately in authorizing legislation.

In some years, the budget resolution includes reconciliation instructions. All committees receiving such instructions submit their recommendations to the Budget Committee in their chamber, which packages them as an omnibus measure and reports it without substantive revision. The reconciliation process has become the chief avenue for achieving the changes in revenues and entitlements necessary to implement the overall budget plan established in the budget resolution.

Congress must enact these measures prior to the start of each fiscal year (October 1) or provide for the affected programs in a continuing resolution.

Congress passes three main types of appropriations measures. *Regular* appropriations provide budget authority to agencies for the next fiscal year. *Supplemental* appropriations provide additional budget authority during the current fiscal year when the regular appropriation is insufficient or to finance activities not provided for in the regular appropriation. *Continuing* appropriations provide stop-gap (or full-year) funding for agencies that have not received a regular appropriation by the start of the fiscal year.

In a typical session, Congress acts on more than 16 appropriations measures, including 13 regular appropriations bills and at least two supplemental appropriations measures. Because of recurring delays in the appropriations process, Congress typically passes one or more continuing appropriations each year. The scope and duration of these measures depend on the status of the regular appropriations bills and the degree of budgetary conflict between the President and Congress. In some years, a continuing appropriations measure has been turned into an omnibus measure for enactment of regular appropriations bills.

Budget Enforcement Act Procedures

Enforcement of the budget resolution is accomplished by points of order against legislation that would violate its strictures, and through enactment of legislation in response to reconciliation instructions. The main enforcement mechanism that keeps Congress from passing legislation that is not in keeping with the budget resolution is a procedural “point of order” that can be raised on the House or Senate floor. In recent years, this budget point of order has not been particularly important in the House, where it can be waived by a simple majority vote on a resolution developed by the leadership-appointed Rules Committee that sets the conditions under which a bill will be considered on the floor. However, the budget point of order is very important in the Senate.

Any legislation that exceeds a committee’s spending allocation or cuts taxes below the level allowed in the budget resolution is vulnerable to a budget point of order on the Senate floor. This point of order requires 60 votes to waive.

Independent of the Congressional Budget Act, the Senate uses a rule requiring that all entitlement increases and tax cuts be fully offset over ten years.

If legislation providing for new tax cuts or entitlement increases is not paid for, the “PAYGO” rule requires 60 votes in order for the Senate to consider it. This is true even if the budget resolution had assumed these tax cuts or spending increases and allocated the necessary amounts to the relevant committees.

Although the PAYGO rule recently expired, it is still adhered to informally.

Establishment of the Sequestration Process

After a decade of experience with the Congressional Budget Act of 1974, Congress faced persistent high deficits and increasing budgetary deadlock. In 1985, it enacted legislation aimed at bringing the federal budget into balance by the early 1990s. That legislation, the Balanced Budget and Emergency Deficit Control Act of 1985, is commonly referred to as the Gramm-Rudman-Hollings (GRH) Act.

The GRH Act established a series of declining annual deficit targets and created an automatic spending-reduction process (known as sequestration) intended to ensure that the deficit targets are adhered to even if Congress and the President fail to reduce the deficit sufficiently through legislative action. Congress made significant changes in the through the Budget Enforcement Act (BEA) of 1990. The BEA created pay-as-you-go procedures to require that increases in direct spending (spending controlled outside of the annual appropriations process) or decreases in revenues due to legislative action are offset so that there is no net increase in the deficit.

Sequestration involves the issuance of a presidential order that permanently cancels budgetary resources (except for special funds and trust funds) for the purpose of achieving a required amount of outlay savings to reduce the deficit. Once sequestration is triggered by an executive determination, spending reductions are made automatically; this process, therefore, is regarded by many as providing a strong incentive for Congress and the President to reach agreement on legislation that would avoid a sequester.

Budget Time Table

The current timetable for enacting a budget is as follows.

March-January (19 months before the start of the fiscal year), the President formulates his budget.

First Friday in February: President transmits the budget to Congress.

April 15: Congressional budget committees report the first concurrent budget resolution.

May 15: Congress completes action on the first concurrent budget resolution.

March -September, Congress acts on individual appropriations bills. If appropriation action is not completed by September 30, Congress enacts a "continuing resolution" which provides funding authority for the agency until a final bill is approved.

July 15: The President provides Congress with a mid-session update of budget estimates.

October 1: Start of the new fiscal year.

October 1-September 30: Execution of the enacted budget.