How a Bill Becomes a Law

Inquire: How Does a Bill Become a Law?

Overview

The framers of the Constitution wanted the legislative branch to be serious when they passed a bill into a law. As a result, it takes at least one vote over 50%, and each bill must be passed in *identical form* by both houses before it can go to the president.

With different rules in both houses, and different power structures, it is a difficult path. Additionally, the president does not have to sign bills that come out of Congress; he or she wields the power of the veto. Politics and persuasion both play a part as “bills” try to become “laws.”

**Big Question**: What are the logistical differences in how a bill moves through the Senate and the House?

**Watch: “I’m Just a Bill, Up on Capitol Hill…”**

Since 1976, elementary through high school age students have learned how a bill becomes a law by watching and singing along to the Schoolhouse Rock video, *I’m Just a Bill*, written by Dave Frishberg. The video includes an engaging young boy who is given a whole lesson on Congressional procedures by energized and hopeful “Bill,” all told in a memorable and bouncy song with almost unforgettable lyrics.

Through the years, there have been parodies, jokes, and comic one-liners; in 2014, Saturday Night Live did an excellent re-make called, “I’m Just An Executive Order,” in a comic response to President Obama’s Executive Order on immigration. Though the SNL remake is not kid-friendly, it is fairly spot-on, and the comparison it makes between a “bill” and an “executive order” is funny and accurate.

Regardless, the original is just about as good as it gets for a song aimed to explain a complex and somewhat boring procedure to elementary age students in such a way that it is remembered years later. The stereotypical depiction of the overweight Congressman, the nonsensical background blathering in the Committee Hearing, the large number of other “bills” who will never become law, the difficulty of moving through the House and then having to start again in the Senate, and finally, needing the president’s signature: it is entertaining, yet true.

The system set up by the founding fathers tracks their fear of government. It incorporates both houses of the legislative branch (Congress), and requires that they work together and come to a complete agreement. Then the executive branch (the president) must approve the bill and sign it into law, or he or
she can veto the law. While Congress can override a veto, it is difficult, meaning Congress and the president must also work together in this process.

As complicated as it is, if you want a simpler, more understandable explanation, go to the I am a Bill link in the Toolbox and let Bill sing you a song you may never forget!

Read: The Legislative Process

The Classic Legislative Process

The traditional process by which a bill becomes a law is called the classic legislative process. First, legislation must be drafted. Theoretically, anyone can do this; much successful legislation has been initially drafted by someone who is not a member of Congress, such as a think tank, advocacy group, or the president. However, Congress is under no obligation to read or introduce this legislation and only a bill introduced by a member of Congress can hope to become law. Even the president must rely on legislators to introduce his or her legislative agenda.

Once legislation has been proposed, however, the majority leadership decides which committee to send it to. Once a committee has been selected, the committee chair is empowered to move the bill through the committee process as he or she sees fit. This occasionally means the chair will refer the bill to one of the committee’s subcommittees.

Whether at the full committee level or in one of the subcommittees, the next step is typically to hold a hearing on the bill. If the chair decides not to hold a hearing, this is tantamount to killing the bill in committee. The hearing provides an opportunity for the committee to hear and evaluate expert opinions on the bill, or aspects of it. Experts typically include officials from the agency that would be responsible for executing the bill, the bill’s sponsors from Congress, and industry lobbyists, interest groups, and academic experts from a variety of relevant fields. Typically, the committee will also accept written statements from the public concerning the bill in question. For many bills, the hearing process can be very routine and straightforward.

Once hearings have been completed, the bill enters the markup stage. This is essentially an amending and voting process. In the end, with or without amendments, the committee or subcommittee will vote. If the committee decides not to advance the bill at that time, it is tabled. Tabling a bill typically means the bill is dead, but there is still an option to bring it back up again for a vote. If the committee decides to advance the bill, however, it is printed and goes to either the House or the Senate chamber.

For the sake of example, we will assume that a bill goes first to the House (although the reverse could be true, and in fact, bills can move simultaneously through both chambers). Before it reaches the House floor, it must first go through the House Committee on Rules. This committee establishes the rules of debate, such as time limits and limits on the number and type of amendments. After these rules have been established, the bill moves through the floor, where it is debated and amendments can be added. Once the limits of debate and amendments have been reached, the House holds a vote. If a simple majority, 50 percent plus one, votes to advance the bill, it moves out of the House and into the Senate.

Once in the Senate, the bill is placed on the calendar to be debated. Or, more typically, the Senate will also consider the bill (or a companion version) in its own committees. Since the Senate is much smaller than the House, it can afford to be much more flexible in its rules for debate. Typically, senators allow each other to talk and debate as long as the speaker wants, though they can agree as a body to create
time limits. But, without these limits, debate continues until a motion to table has been offered and voted on.

This flexibility about speaking in the Senate gave rise to a unique tactic, the **filibuster**. The word “filibuster” comes from the Dutch word vrijbuiter, which means pirate. The name is appropriate, since a senator who launches a filibuster virtually hijacks the chamber floor by speaking for long periods of time, thus preventing the Senate from closing debate and acting on a bill. The tactic was perfected in the 1850s as Congress wrestled with the complicated issue of slavery. Eventually, in 1917, the Senate passed Rule 22, which allowed the chamber to hold a **cloture** vote to end debate. To invoke cloture, the Senate had to get a two-thirds majority. This was difficult to do, but it generally did prevent anyone from hijacking the Senate floor. In 1975, the Senate further weakened the filibuster by reducing the number needed for cloture from two-thirds to three-fifths, or 60 votes, where it remains today (except for judicial nominations for which only 55 votes are needed to invoke cloture).

Because both the House and the Senate can, and often do, amend bills, the bills that pass out of each chamber frequently look different. This presents a problem, since the Constitution requires that both chambers pass identical bills. Normally, one chamber will simply accept the amendments from the other chamber, but about one in every eight bills cannot be resolved in this way. These bills must be sent to a **conference committee** that negotiates a bill acceptable to both chambers. Only then can the bill be sent to the president’s desk for signature.

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**Modern Legislation is Different**

For much of the nation’s history, the described process was the standard method by which a bill became law. Over the course of the last three and a half decades, however, changes in rules and procedure have created a number of alternate routes.

The 1974 Budget and Impoundment Control Act gave Congress a mechanism for making large, all-encompassing, budget decisions. In the years that followed, the budget process gradually became the vehicle for creating comprehensive policy changes. The benefit of attaching reforms to the budget
resolution was that Congress could force an up or down (yea or nay) vote on the whole package. Such a packaged bill is called an omnibus bill, as it has numerous provisions, sub-bills, that are not affiliated with the budget. Regardless, the House and Senate members must now vote “yea” or “nay” on the whole bill, which includes the budget.

Another important characteristic feature of modern legislating is the greatly expanded power and influence of the party leadership over the control of bills. With the animosity and acrimony that has become a part of the political system, party leadership is reluctant to simply allow the committees to work things out on their own. In the House, the leadership uses special rules to guide bills through the legislative process and toward a particular outcome.

The practice of multiple referrals, with which entire bills or portions of those bills are referred to more than one committee, has greatly weakened the different specialization monopoly committees held primarily in the House, but also to an extent in the Senate. With less control over the bills, the leadership is able to assert more control over the language and the passage of the bills.

Reflect Poll: The House or the Senate?

If you were a Congress member and were to work on getting a piece of legislation through, would you rather be working in the House, with more control by the speaker and stricter debate rules, amendments, etc., or would you rather work under the less stringent requirements of the Senate?

- The House
- The Senate

Expand: Creating Legislation

Creating legislation is what the business of Congress is all about. Ideas for laws come from many places — ordinary citizens, the president, offices of the executive branch, state legislatures and governors, congressional staff, and of course, the members of Congress themselves.

Constitutional provisions, whose primary purposes are to create obstacles, govern the process that a bill goes through before it becomes law. The founders believed that efficiency was the hallmark of oppressive government, and they wanted to be sure that laws that could pass all hurdles were the well-considered result of inspection by many eyes.

Before a bill becomes a law, it must pass both houses of Congress and be signed into law by the president. A bill may begin its journey at any time, but it must be passed during the same congressional session of its proposal, a period of one year. If it does not complete the process, it is dropped, and can only be revived through reintroduction and going through the whole process again. Not surprisingly, less than ten percent of proposed bills actually become laws.

There are many opportunities to kill a bill before it becomes law. In each house, a bill must survive three stages:

1. Committee consideration - New bills are sent to standing committees by subject matter. For example, bills on farm subsidies generally go to the Agriculture Committee. Bills that propose tax changes go to the House Ways and Means Committee. Due to the high volume of bills, most bills today are sent directly to subcommittee. Most bills — about 90% — die in committee or subcommittee, where they are pigeonholed, or simply forgotten and never discussed. If a bill survives, hearings are set in which various experts, government officials, or lobbyists present
their points of view to committee members. After the hearings, bills are marked up, or revised, until the committee is ready to send it to the floor.

2. **Floor debate** - In the House only, a bill goes from committee to a special Rules Committee that sets time limits on debate and rules for adding amendments. If time limits are short and no amendments are allowed from the floor, the powerful Rules Committee is said to have imposed a "gag rule." Rules for debate on the Senate floor are much looser, with senators allowed to talk as much about each bill as they’d like. No restrictions on amendments are allowed in the Senate, and the Senate has the potential for a filibuster to occur. Both houses require a quorum, or majority, of its members to be present for a vote. A bill’s passage generally requires a majority vote by the members present.

3. **Conference committees** - Most bills that pass the first two stages do not need to go to conference committee, but those that are controversial, particularly important, or complex often do. A conference committee is formed to merge two versions of a bill — one from the House and one from the Senate — when the two houses cannot readily agree on alterations. The members, chosen from the standing committees that sponsored the bill, come up with a compromise. The revised bill then must go back to the floors of each house and be passed by both houses before it can be sent to the president for signing.

If a bill gets this far, it must next be signed by the president. If the president refuses to sign a law — called vetoing a law — Congress can override the veto with a two-thirds vote in each house. It can be done, and has been done, but it is extremely difficult. Which means, the president’s support, or lack thereof, is an issue that must be considered from the very beginning of any bill.

The many hurdles that bills face help to ensure that those bills that survive are not just passed on a whim, but are well-considered, deliberate, intentional pieces of legislation that are important to the American people.

**Lesson Toolbox**

**Additional Resources and Readings**

The classic Schoolhouse Rock song, "I’m Just a Bill"
- Link to resource: https://www.youtube.com/watch?v=FFroMQlKiag

A video describing the process and complexity of how a bill becomes a law
- Link to resource: https://www.youtube.com/watch?v=66f4-NKEYz4

A video describing how difficult it is for a bill to become a law
- Link to resource: https://www.youtube.com/watch?v=_49rE9lOnT0

**Lesson Glossary**

- **markup**: the amending and voting process in a congressional committee
- **filibuster**: a parliamentary maneuver used in the Senate to extend debate on a piece of legislation as long as possible, typically with the intended purpose of obstructing or killing it
- **classic legislative process**: the traditional process by which a bill becomes a law
**cloture**: a parliamentary process to end a debate in the Senate, as a measure against the filibuster; invoked when three-fifths of senators vote for the motion

**conference committee**: a special type of joint committee that reconciles different bills passed in the House and the Senate to result in a single bill

**Constitutional provisions**: laws that are written in the Constitution itself and do not come from a rule or statute

**omnibus bill**: a proposed law that covers a number of diverse or unrelated topics

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**Check Your Knowledge**

1. Congress is under no obligation to read or introduce legislation proposed by an advocacy group, and only a bill introduced by a member of the Senate can hope to become law.
   - a. True
   - b. False

2. The word “filibuster” comes from the Dutch word *vrijbuiter*, which means pirate.
   - a. True
   - b. False

3. A bill may begin its journey at any time, but it must be passed during the same congressional session of its proposal, a period of two years.
   - a. True
   - b. False

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**Answer Key:**


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