

# CHAPTER 12

## The Legislative Branch

### IN THIS CHAPTER

**Summary:** Article I of the United States Constitution creates a **bicameral**, or two-house, legislature consisting of the House of Representatives and the Senate. The current structure of the Congress was the result of the Connecticut (Great) Compromise, reached at the Constitutional Convention. The Founding Fathers based their compromise in part on the belief that each house would serve as a check on the power of the other house. The House of Representatives was to be based on the population in the states, representative of the people, with its members chosen by popular vote. The Senate was to represent the states, with each state having the same number of senators, chosen by the state legislatures.

### Key Terms

bicameral  
apportionment  
reapportionment  
congressional districting  
gerrymandering  
incumbency effect  
casework  
constituents  
Speaker of the House  
majority leader  
president pro tempore

floor leaders  
seniority system  
standing committee  
select committee  
joint committee  
conference committee  
caucuses  
trustee  
franking privilege  
oversight  
bills

rules committee  
filibuster  
cloture  
pork barrel legislation  
logrolling  
riders  
amendments  
lobbying  
legislative veto

# Structure of Congress

Figure 12-1 shows the structure of the two arms of Congress.

## Structure of Congress: A Comparison of the House and Senate

	House of Representatives	Senate
<b>Membership</b>	435 members (apportioned by population)	100 members (two from each state)
<b>Term of office</b>	2 years; entire House elected every 2 years	6 years; staggered terms with one-third of the Senate elected every 2 years
<b>Qualifications</b>	at least 25 years of age; citizen for 7 years; must live in state where district is located	at least 30 years of age; citizen for 9 years; must live in state
<b>Constituencies</b>	Smaller, by districts	Larger, entire state
<b>Prestige</b>	Less prestige	More prestige

Figure 12-1

## Organization of Congress

- Two houses meet for terms of two years beginning on January 3 of odd-numbered years; each term is divided into two one-year sessions
- The president may call special sessions in cases of national emergency
- Each house of Congress chooses its own leadership and determines its own rules

## Election to Congress

### Getting Elected to the House of Representatives

The Constitution guarantees each state at least one representative. Members are chosen from districts within each state. Some practices related to determining congressional representation are:

#### KEY IDEA

- **apportionment**—distribution among the states based on the population of each of the states
- **reapportionment**—the redistribution of Congressional seats after the census determines changes in population distribution among the states
- **congressional districting**—the drawing by state legislatures of congressional districts for those states with more than one representative
- **gerrymandering**—drawing congressional districts to favor one political party or group over another

### Getting Elected to the Senate

The Constitution guarantees that “no state, without its consent, shall be deprived of its equal suffrage in the Senate” (Article V).

- Members were originally chosen by the state legislatures in each state.
- Since 1913, the Seventeenth Amendment allows for the direct election of senators by the people of the state.

## KEY IDEA

**Incumbency Effect**

The incumbency effect is the tendency of those already holding office to win reelection. The effect tends to be stronger for members of the House of Representatives and weaker for the Senate. Advantages may include:

- *name recognition*—Voters are more likely to recognize the office holder than the challenger.
- *credit claiming*—The office holder may have brought government projects and money into the state or district.
- *casework for constituents*—Office holders may have helped constituents solve problems involving government and the bureaucracy.
- *more visible to constituents*—Members can use the “perks” of the office to communicate with constituents. Franking, the privilege of sending official mail using the incumbent’s signature as postage, provides communication with constituents.
- *media exposure*—Incumbents are more likely to gain “free” publicity during a campaign through the media.
- *fund-raising abilities*—It is generally greater for incumbents.
- *experience in campaigning*—Incumbents have already experienced the campaign process.
- *voting record*—Voters can evaluate their performance based on their record.

**Term Limits**

Although several states have passed legislation establishing term limits for members of Congress, the Supreme Court has ruled that neither the states nor Congress may impose term limits without a constitutional amendment. Therefore, today, there are no limitations on the number of terms a member of Congress may serve.

**Leadership of Congress**

The majority political party in each house controls the leadership positions of Congress.

**House of Representatives**

## KEY IDEA

- The **Speaker of the House** is the presiding officer and most powerful member of the House. Major duties include assigning bills to committee, controlling floor debate, and appointing party members to committees.
- Majority and minority leaders
  - The **majority leader** serves as the major assistant to the speaker, helps plan the party’s legislative program, and directs floor debate.
  - The minority floor leader is the major spokesperson for the minority party and organizes opposition to the majority party.
- Whips help floor leaders by directing party members in voting, informing members of impending voting, keeping track of vote counts, and pressuring members to vote with the party.

**Senate**

- The U.S. vice president, although not a Senate member, is the presiding officer of the Senate, according to the Constitution. The vice president may not debate and only votes to break a tie.

- The **president pro tempore** is a senior member of the majority party chosen to preside in the absence of the Senate president. This is a mostly ceremonial position lacking real power.
- Majority and minority **floor leaders**
  - The majority floor leader is the most influential member of the Senate and often the majority party spokesperson.
  - The minority floor leader performs the same role as the House minority leader.
- Whips serve the same role as whips in the House of Representatives.

## The Committee System

Most of the work of Congress is accomplished through committees. Committees permit Congress to divide the work among members, thus allowing for the study of legislation by specialists and helping speed up the passage of legislation.

### Leadership of Committees

Committee chairpersons are members of the majority party in each house chosen by party caucus. They set agendas, assign members to subcommittees, and decide whether the committee will hold public hearings and which witnesses to call. They manage floor debate of the bill when it is presented to the full House or Senate. Traditionally chairpersons were chosen based on the **seniority system**, with the majority party member having the longest length of committee service chosen as chairperson. Today, reforms allow for the selection of chairpersons who are not the most senior majority-party member on the committee. However, most are long-standing members of the committee.

### Membership on Committees

The percentage of each committee's membership reflects the overall percentage of Democrats and Republicans in each house. Members try to serve on committees where they can influence public policy relating to their district or state (for example, a Kansas senator on the agriculture committee) or influence important national public policy.

### Types of Committees

- A **standing committee** is a permanent committee that deals with specific policy matters (agriculture, energy and natural resources, veterans' affairs).
- A **select committee** is a temporary committee appointed for a specific purpose. Most are formed to investigate a particular issue, such as the Senate Watergate Committee.
- A **joint committee** is made up of members of both houses of Congress. It may be a select committee (Iran-Contra Committee) or perform routine duties (Joint Committee on the Library of Congress).
- A **conference committee** is a temporary committee of members from both houses of Congress, created to resolve the differences in House and Senate versions of a bill. It is a compromise committee.

### Caucuses

**Caucuses** are informal groups formed by members of Congress who share a common purpose or set of goals (Congressional Black Caucus, Women's Caucus, Democratic or Republican Caucus).

## Congressional Staff and Support

- Personal staff work directly for members of Congress in Washington, D.C., and their district offices in their home states.
- Committee staff work for committees and subcommittees in Congress, researching problems and analyzing information.
- Support agencies provide services to members of Congress (Library of Congress, Government Printing Office).

## Roles of Members of Congress

Members of Congress have several roles.

- *policy maker*—make public policy through the passage of legislation
- *representative*—represent constituents
  - *delegate*—members vote based on the wishes of constituents, regardless of their own opinions
  - *trustee*—after listening to constituents, members vote based on their own opinions
- *constituent servant*—help constituents with problems
- *committee member*—serve on committees
- *politician/party member*—work to support their political party platform and get reelected

## Privileges of Members of Congress

Members of Congress enjoy several privileges, including:

- allowances for offices in their district or home state
- travel allowances
- the **franking privilege** allows members of Congress to send mailings to constituents postage free
- immunity from arrest while conducting congressional business
- immunity from libel or slander suits for their speech or debate in Congress

## Powers of Congress

Congress has legislative and nonlegislative powers.

### KEY IDEA

1. Legislative powers—power to make laws
  - *expressed powers*—powers specifically granted to Congress, mostly found in Article I, Section 8 of the Constitution
  - *implied powers*—powers that may be reasonably suggested to carry out the expressed powers; found in Article I, Section 8, Clause 18; “necessary and proper” or elastic clause; allows for the expansion of Congress’s powers (expressed power to raise armies and navy implies the power to draft men into the military)
  - *limitations on powers*—powers denied Congress by Article I, Section 9 and the Tenth Amendment
2. Nonlegislative powers—duties other than lawmaking
  - *electoral powers*—selection of the president by the House of Representatives and/or vice president by the Senate upon the failure of the electoral college to achieve a majority vote

- *amendment powers*—Congress may propose amendments by a two-thirds vote of each house or by calling a national convention to propose amendments if requested by two-thirds of the state legislatures
- *impeachment*—the House may bring charges, or impeach, the president, vice president, or any civil officer; case is tried in the Senate with the Senate acting as the jury (Andrew Johnson and Bill Clinton were both impeached by the House but not convicted by the Senate)
- *executive powers of Senate*—the Senate shares the appointment and treaty-making powers with the executive branch; the Senate must approve appointments by majority vote and treaties by two-thirds vote
- *investigative/oversight powers*—investigate matters falling within the range of its legislative authority; often involves the review of policies and programs of the executive branch

## The Lawmaking Process



Figure 12-2 shows the steps involved for a bill to become a law.

### How a Bill Becomes a Law

Bills, or proposed laws, may begin in either house, except revenue bills, which must begin in the House of Representatives.

#### HOUSE OF REPRESENTATIVES

A bill is introduced, numbered, and assigned to a committee.

The bill may be assigned to a subcommittee for further study.

The bill is returned to committee, where it is approved or rejected.

The **rules committee** sets terms of debate for the bill.

The bill is debated by the House.

A vote is taken, where the bill is passed or defeated. Bills that pass the House are sent to the Senate.

#### SENATE

A bill is introduced, numbered, and assigned to a committee.

The bill may be assigned to a subcommittee for further study.

The bill is returned to committee, where it is approved or rejected.

No rules committee!

The bill is debated by the Senate.

A vote is taken, where the bill is passed or defeated. Bills that pass the Senate are sent to the House.

Conference committee resolves differences between House and Senate versions of a bill. Compromise versions may not contain any new material.

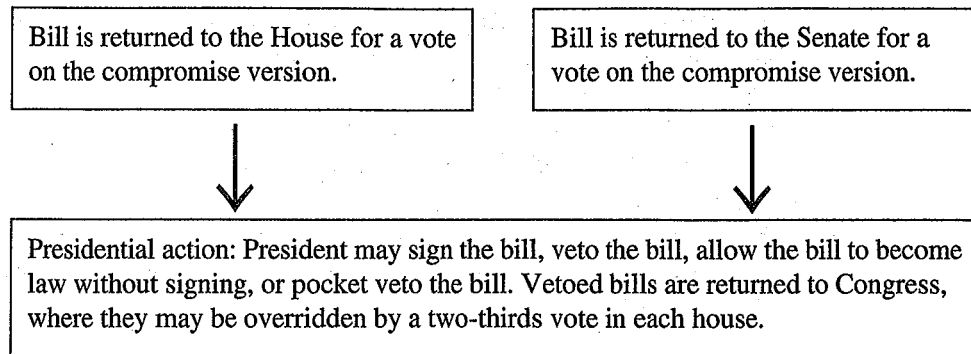


Figure 12-2

## Legislative Tactics

### KEY IDEA

Legislative tactics are the strategies and devices used by Congress and others in an attempt to block legislation or to get legislation passed.

- *caucuses*—May form voting blocs.
- the *committee system*—Plays a major role in the passage of legislation; bills may die if committees fail to act upon them or reject them.
- *filibuster and cloture*—Filibuster is unlimited debate in an attempt to stall action on a bill. It occurs in the Senate only, and is possible because the Senate's rules for debate are almost unrestricted. Cloture is the method by which the Senate limits a filibuster. It involves a petition to end debate and requires the vote of at least 60 senators.
- *pork barrel legislation*—An attempt to provide funds and projects for a member's home district or state.
- *logrolling*—An attempt by members to gain the support of other members in return for their support on the member's legislation; "I'll support your bill, if you will support mine."
- *riders*—Additions to legislation which generally have no connection to the legislation; generally legislation that would not pass on its own merit; when a bill has lots of riders it becomes a "Christmas tree bill."
- *amendments*—Additions or changes to legislation that deal specifically with the legislation.
- *lobbying*—Trying to influence members of Congress to support or reject legislation.
- *conference committees*—May affect the wording and therefore the final intent of the legislation.
- *legislative veto*—The rejection of a presidential or executive branch action by a vote of one or both houses of Congress, used mostly between 1932 and 1980 but declared unconstitutional by the Supreme Court in 1983 (*Immigration and Naturalization Service v. Chadha*) stating that Congress cannot take any actions having the force of law unless the president agrees.

## Influences on Congress

Various individuals and groups influence Congress members.

- *constituents*—Members, especially those who hope to win reelection, often take into consideration the opinions of their constituents and voters back home in their district or state.
- *other lawmakers and staff*—More senior members often influence newer members; committee members who worked on legislation often influence other members; and staff often research issues and advise members.

- *party influences*—Each party's platform takes a stand on major issues, and loyal members often adhere to the "party line." Members in the House are more likely to support the party position than are Senators.
- *president*—Presidents often lobby members to support legislation through phone calls, invitations to the White House, or even appeals to the public to gain support from voters to bring pressure on members.
- *lobbyists and interest groups*—often provide members with information on topics relating to their group's interest or possible financial support in future campaigns.