Chapter 10 - The Congress

Most Americans view Congress in a less-than-flattering light. In recent years, Congress has appeared to be deeply split, highly partisan in its conduct, and not very responsive to public needs. Polls show that recently, fewer than 20 percent of the public have had a favorable opinion about Congress as a whole. Yet individual members of Congress often receive much higher approval ratings from the voters in their districts. This is one of the paradoxes of the relationship between the people and Congress. Members of the public hold the institution in relatively low regard compared with the satisfaction they express with their individual representatives.

Part of the explanation for these seemingly contradictory appraisals is that members of Congress spend considerable time and effort serving their constituents. If the federal bureaucracy makes a mistake, the office of the constituent's senator or representative tries to resolve the issue. On a personal level, what most Americans see, therefore, is the work of these local representatives in their home states.

Congress, however, was created to work not just for local constituents but also for the nation as a whole. Reformers have often proposed changes to the way we elect members of Congress in the hope of encouraging members to consider the national interest. Understanding the nature of the institution and the process of lawmaking is an important part of understanding how the policies that shape our lives are made. In this chapter, we describe the functions of Congress, including constituent service, representation, lawmaking, and oversight of the government. We review how the members of Congress are elected and how Congress organizes itself when it meets. We also examine how bills pass through the legislative process and become laws, and how the federal budget is established.

THE NATURE AND FUNCTIONS OF CONGRESS

The founders of the American republic believed that the bulk of the power that would be exercised by a national government should be in the hands of the legislature. The leading role envisioned for Congress in the new government is apparent from its primacy in the Constitution. Article I deals with the structure, the powers, and the operation of Congress.

Bicameralism

The bicameralism of Congress - its division into two legislative houses - was in part the result of the Connecticut Compromise, which tried to balance the large-state population advantage, reflected in the House, and the small-state demand for equality in policymaking, which was satisfied in the Senate. Beyond that, the two chambers of Congress also reflected the social class biases of the founders. They wished to balance the interests and the numerical superiority of the common citizens with the property interests of the less numerous landowners, bankers, and merchants. They achieved this goal by providing that members of the House of Representatives should be elected
directly by "the People," whereas members of the Senate were to be chosen by the elected representatives sitting in state legislatures, who were more likely to be members of the elite. (The latter provision was changed in 1913 by the passage of the Seventeenth Amendment, which provides that senators are also to be elected directly by the people.)

The logic of the bicameral Congress was reinforced by differences in length of tenure. Members of the House are required to face the electorate every two years, whereas senators can serve for a much more secure term of six years - even longer than the four-year term provided for the president. Furthermore, the senators' terms are staggered so that only one-third of the senators face the electorate every two years, along with all of the House members.

The bicameral Congress was designed to perform certain functions for the political system. These functions include lawmaking, representation, service to constituents, oversight (regulatory supervision), public education, and conflict resolution. Of these, the two most important and the ones that most often interfere with each other are lawmaking and representation.

The Lawmaking Function

The principal and most obvious function of any legislature is lawmaking. Congress is the highest elected body in the country charged with making binding rules for all Americans. This does not mean, however, that Congress initiates most of the ideas for legislation that it eventually considers. A majority of the bills that Congress acts on originate in the executive branch, and many other bills are traceable to interest groups and political party organizations. Through the processes of compromise and logrolling (offering to support a fellow member's bill in exchange for that member's promise to support your bill in the future), as well as debate and discussion, backers of legislation attempt to fashion a winning majority coalition. Traditionally, logrolling often involved agreements to support another member's legislative earmarks, also known as pork.

Earmarks are special provisions in legislation to set aside funds for projects that have not passed an important evaluation by agencies of the executive branch. (Normal spending projects pass through such evaluations.) Recent attempts to ban pork have not succeeded in eliminating the process altogether but have significantly reduced its frequency.

The Representation Function

Representation includes both representing the desires and demands of the constituents in the member's home district or state and representing larger national interests, such as the nation's security or the environment. Because the interests of constituents in a specific district may be at odds with the demands of national policy, the representation function is often a source of conflict for individual lawmakers - and sometimes for Congress as a whole. For example, although it may be in the interest of the nation to reduce defense spending by closing military bases, such closures are not in the interest of the states and districts that will lose jobs and local spending. Every legislator faces votes that set local representational issues against lawmaking realities.
How should the legislators fulfill the representation function? There are several views on how this task should be accomplished.

The Trustee View of Representation. One approach to the question of how representation should be achieved is that legislators should act as **trustees** of the broad interests of the entire society. They should vote against the narrow interests of their constituents if their conscience and their perception of national needs so dictate. For example, in 2011 Congress approved trade agreements with Colombia, Panama, and South Korea, despite the widely held belief that such agreements cost American jobs.

The Instructed-Delegate View of Representation. Directly opposed to the trustee view of representation is the notion that members of Congress should behave as **instructed delegates**. That is, they should mirror the views of the majority of the constituents who elected them. On the surface, this approach is plausible and rewarding. For it to work, however, we must assume that constituents actually have well-formed views on the issues that are decided in Congress and, further, that they have clear-cut preferences about these issues. Neither condition is likely to be satisfied very often.

Generally, most legislators hold neither a pure trustee view nor a pure instructed-delegate view. Typically, they combine both perspectives in a pragmatic mix.

**Service to Constituents**

Individual members of Congress are expected by their constituents to act as brokers between private citizens and the imposing, often faceless federal government. This function of providing service to constituents usually takes the form of **casework**. The legislator and her or his staff spend a considerable portion of their time in casework activities, such as tracking down a missing Social Security check, explaining the meaning of particular bills to people who may be affected by them, promoting a local business interest, or interceding with a regulatory agency on behalf of constituents who disagree with proposed agency regulations.

Legislators and many analysts of congressional behavior regard this **ombudsperson** role as an activity that strongly benefits the members of Congress. A government characterized by a large, confusing bureaucracy and complex public programs offers innumerable opportunities for legislators to come to the assistance of (usually) grateful constituents.

**The Oversight Function**

Oversight of the bureaucracy is essential if the decisions made by Congress are to have any force. **Oversight** is the process by which Congress follows up on the laws it has enacted to ensure that they are being enforced and administered in the way Congress intended. This is done by holding committee hearings and investigations, changing the size of an agency's budget, and cross-examining high-level presidential nominees to head major agencies.
Senators and representatives traditionally have seen their oversight function as a critically important part of their legislative activities. In part, oversight is related to the concept of constituency service, particularly when Congress investigates alleged arbitrariness or wrongdoing by bureaucratic agencies.

A problem with oversight is that it has become entangled in partisan politics. During the past two decades, members of Congress have tended to ease up on oversight whenever the president is of their political party. In contrast, oversight can become intense, and even excessive, when the president faces a chamber of Congress that is controlled by the other party.

The Public-Education Function

Educating the public is a function that Congress performs whenever it holds public hearings, exercises oversight over the bureaucracy, or engages in committee and floor debate on such major issues and topics as immigration, global warming, and the concerns of small businesses. In doing so, Congress presents a range of viewpoints on pressing national questions. Congress also decides what issues will come up for discussion and decision. This agenda setting is a major facet of its public-education function.

The Conflict-Resolution Function

Congress is commonly seen as an institution for resolving conflicts within American society. Organized interest groups and spokespersons for different racial, religious, economic, and ideological interests look on Congress as an access point for airing their grievances and seeking help. This puts Congress in the position of trying to resolve the differences among competing points of view by passing laws to accommodate as many interested parties as possible. To the extent that Congress meets pluralist expectations in accommodating competing interests, it tends to build support for the entire political process.

The Powers of Congress

The Constitution is both highly specific and extremely vague about the powers that Congress may exercise. The first seventeen clauses of Article I, Section 8, specify most of the enumerated powers of Congress - that is, powers expressly given to that body.

Enumerated Powers. The enumerated, or expressed, powers of Congress include the right to:

* Impose a variety of taxes, including tariffs on imports.
* Borrow funds.
* Regulate interstate commerce and international trade.
* Establish procedures for naturalizing citizens.
* Make laws regulating bankruptcies.
* Coin (and print) currency, and regulate its value.
* Establish standards of weights and measures.
* Punish counterfeiters.
* Establishes post offices and post roads.
* Regulate copyrights and patents.
* Establish the federal court system.
* Punish illegal acts on the high seas.
* Declare war.
* Raise and regulate an army and navy.
* Call up and regulate the state militias to enforce laws, to suppress insurrections, and to repel invasions.
* Govern the District of Columbia.

The most important of the domestic powers of Congress, listed in Article I, Section 8, are the rights to collect taxes, to spend, and to regulate commerce. The most important foreign policy power is the power to declare war. Other sections of the Constitution allow Congress to establish rules for its own members, to regulate the electoral college, and to override a presidential veto. Congress may also regulate the extent of the Supreme Court's authority to review cases decided by the lower courts, regulate relations among states, and propose amendments to the Constitution.

Powers of the Senate. Some functions are restricted to one chamber. The Senate must advise on, and consent to, the ratification of treaties and must accept or reject presidential nominations of ambassadors, Supreme Court justices, other federal judges, and "all other Officers of the United States." But the Senate may delegate to the president or lesser officials the power to make lower-level appointments.

These specific powers granted to the Senate mean that the Senate is a more powerful chamber than the House. The United States is unique among the world's economically advanced nations in that its "upper house" - the Senate - is more powerful than the "lower house." In every nation with a parliamentary system, the lower house in effect chooses the nation's chief executive officer, the prime minister.

Constitutional Amendments. Amendments to the Constitution provide for other congressional powers. Congress must certify the election of a president and vice president or itself choose those
officers if no candidate has a majority of the electoral vote (Twelfth Amendment). It may levy an income tax (Sixteenth Amendment) and determine who will be acting president in case of the death or incapacity of the president or vice president (Twentieth Amendment and Twenty-fifth Amendment).

The Necessary and Proper Clause. Beyond those numerous specific powers, Congress enjoys the right under Clause 18 of Article I, Section 8 (the "elastic," or "necessary and proper," clause), "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers [of Article I], and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof." This vague statement of congressional responsibilities has provided, over time, the basis for a greatly expanded national government. It also has constituted, at least in theory, a check on the expansion of presidential powers.

HOUSE-SENATE DIFFERENCES AND CONGRESSIONAL PERKS

Congress is composed of two markedly different - but co-equal - chambers. Although the Senate and the House of Representatives exist within the same legislative institution, each has developed certain distinctive features that clearly distinguish one from the other.

Size and Rules

The central difference between the House and the Senate is simply that the House is much larger than the Senate. The House has 435 representatives, plus delegates from the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands, compared with just 100 senators. The size difference means that a number of formal rules are needed to govern activity in the House, whereas correspondingly looser procedures can be followed in the less-crowded Senate.

This difference is most obvious in the rules governing debate on the floors of the two chambers. The Senate usually permits extended debate on all issues that arise before it. In contrast, the House generally operates with an elaborate system in which its Rules Committee proposes time limitations on debate for any bill, and a majority of the entire body accepts or modifies those suggested time limits. As a consequence of its stricter time limits on debate, the House, despite its greater size, often is able to act on legislation more quickly than the Senate.

As a consequence of the greater size of the House, representatives generally cannot achieve as much individual recognition and public prestige as can members of the Senate. Senators are better able to gain media exposure and to establish careers as spokespersons for large national constituencies.

Debate and Filibustering

The Senate tradition of the filibuster, or the use of unlimited debate as a blocking tactic, dates back to 1790. In that year, a proposal to move the U.S. capital from New York to Philadelphia was stalled
by such time-wasting maneuvers. This unlimited-debate tradition—which also existed in the House until 1811—is not absolute, however.

Cloture. Under Senate Rule 22, debate may be ended by invoking cloture. Cloture shuts off discussion on a bill. Amended in 1975 and 1979, Rule 22 states that debate may be closed off on a bill if sixteen senators sign a petition requesting it and if, after two days have elapsed, three-fifths of the entire membership (sixty votes, assuming no vacancies) vote for cloture. After cloture is invoked, each senator may speak on a bill for a maximum of one hour before a vote is taken.

Increased Use of the Filibuster. Traditionally, filibusters were rare, and the tactic was employed only on issues of principle. Filibustering senators spoke for many hours, sometimes reading names from a telephone book. By the twenty-first century, however, filibusters could be invoked without such speeches, and senators were threatening to filibuster almost every significant piece of legislation to come before the body. The threats were sufficient to create a new, ad hoc rule that important legislation needed the support of sixty senators, not fifty. As a result of the increased use of the filibuster, some senators have called for its abolition.

Reconciliation. An additional way of bypassing the filibuster is known as reconciliation. Budget bills sent from the House or Representatives to the Senate can be handled under special reconciliation rules that do not permit filibusters. Under the rules, reconciliation can be used only to handle budgetary matters. Also, in principle, the procedure is to be invoked only for measures that would have the net effect of reducing the federal deficit. This last restriction, however, has frequently been avoided by misleading bookkeeping.

One of the most striking examples of reconciliation took place in March 2010, when the Democrats used the procedure to make a series of amendments to the just-passed Patient Protection and Affordable Care Act, also known as Obamacare. Reconciliation was necessary because at the end of January the Republicans won a special U.S. Senate election, thus reducing the number of Democratic senators to fifty-nine.

Congresspersons and the Citizenry: A Comparison

Members of the Senate and the House of Representatives are not typical American citizens. Members of Congress are older than most Americans, partly because of constitutional age requirements and partly because a good deal of political experience normally is an advantage in running for national office. Members of Congress are also disproportionately white, male, and trained in high-status occupations. Lawyers are by far the largest occupational group among congresspersons, although the proportion of lawyers in the House is lower now than it was in the past. Compared with the average American citizen, members of Congress are well paid. Annual congressional salaries are now $174,000.
Increasingly, members of Congress are also much wealthier than the average citizen. Whereas about 3 percent of Americans have assets exceeding $1 million (not including their homes), almost half of the members of Congress are millionaires.

**Perks and Privileges**

Legislators have many benefits that are not available to most people. For example, members of Congress are granted generous franking privileges that permit them to mail newsletters, surveys, and other correspondence to their constituents for free. The annual cost of congressional mail is now about $10 million to $15 million a year. Typically, the costs for these mailings rise substantially during election years. The use of franking has dropped since 1990 due to the growth of Web home pages, e-mail, blogs, Facebook, and Twitter.

Permanent Professional Staffs. More than thirty thousand people are employed in the Capitol Hill bureaucracy. About half of them are personal and committee staff members. The personal staff includes office clerks and assistants; professionals who deal with media relations, draft legislation, and satisfy constituency requests for service; and staffers who maintain local offices in the member's home district or state.

The average Senate office on Capitol Hill employs about thirty staff members, and twice that number work on the personal staffs of senators from the most populous states. House office staffs typically are about half as large as those of the Senate. The number of staff members has increased dramatically since 1960.

Congress also benefits from the expertise of the professional staffs of agencies that were created to produce information for members of the House and Senate. For example, the Congressional Research Service, the Government Accountability Office, and the Congressional Budget Office all provide reports, audits, and policy recommendations for review by members of Congress.

Congressional Caucuses: Another Source of Support. The typical member of Congress is part of a variety of caucuses. The most important caucuses are those established by the parties in each chamber. These Democratic and Republican meetings provide information to the members and devise legislative strategy for the party. Other caucuses have been founded, such as the Democratic Study Group and the Congressional Black Caucus, to support subgroups of members. Many caucuses are established to promote special interests, such as the Potato Caucus and the Sportsmen's Caucus. These caucuses deal with a limited range of legislation. Ideological caucuses, in contrast, may take up any issue. Two of the most important ideological caucuses are the conservative Tea Party Caucus and the liberal Progressive Caucus, both in the House.

Privileges and Immunities under the Law. Members of Congress also benefit from a number of special constitutional protections. Under Article I, Section 6, of the Constitution, for example, "for any Speech or Debate in either House, they shall not be questioned in any other Place." The "speech or debate" clause means that a member may make any allegations or other statements he
or she wishes in connection with official duties and normally not be sued for libel or slander or otherwise be subject to legal action.

CONGRESSIONAL ELECTIONS AND APPORTIONMENT

The process of electing members of Congress is decentralized. Congressional elections are conducted by the individual state governments. The states, however, must conform to the rules established by the U.S. Constitution and by national statutes. The Constitution states that representatives are to be elected every second year by popular ballot, and the number of seats awarded to each state is to be determined every ten years by the results of the census. Each state has at least one representative, with most congressional districts having about seven hundred thousand residents. Senators are elected by popular vote (since the passage of the Seventeenth Amendment) every six years; approximately one-third of the seats are chosen every two years. Each state has two senators.

Under Article I, Section 4, of the Constitution, state legislatures are given control over "the Times, Places and Manner of holding Elections for Senators and Representatives"; however, "the Congress may at any time by Law make or alter such Regulations."

Only states can elect members of Congress. Therefore, territories such a Puerto Rico and Guam are limited to electing nonvoting delegates to the House. The District of Columbia is also represented only by a nonvoting delegate.

Candidates for Congressional Elections

Congressional campaigns have changed considerably in the past two decades. Like all other campaigns, they are much more expensive, with the average cost of a winning Senate campaign now $9 million and a winning House campaign averaging more than $1.5 million. In addition, large sums are spent on congressional campaigns by independent committees. Once in office, legislators spend time almost every day raising funds for their next campaign.

Most candidates for Congress must win the nomination through a direct primary, in which party identifiers vote for the candidate who will be on the party ticket in the general election. To win the primary, candidates may take more liberal or more conservative positions to get the votes of the party identifiers. In the general election, they may moderate their views to attract the votes of independents and voters from the other party.

Presidential Effects. Congressional candidates are always hopeful that a strong presidential candidate on their ticket will have "coattails" that will sweep in senators and representatives of the same party. In fact, in some recent presidential elections coattail effects have not materialized at all. One way to measure the coattail effect is to look at the subsequent midterm elections, held in the even-numbered years following the presidential contests. In these years, voter turnout falls sharply. The party controlling the White House frequently loses seats in Congress in the midterm elections, in part because the coattail effect ceases to apply.
The Power of Incumbency. The power of incumbency in the outcome of congressional elections cannot be overemphasized. A sizable majority of representatives and a slightly smaller proportion of senators who decide to run for reelection are successful. This conclusion holds for both presidential-year and midterm elections. Even in 2010, when the Republicans made very large gains, most incumbents were safe. A number of scholars contend that the pursuit of reelection is the strongest motivation behind the activities of members of Congress.

Apportionment of the House

Two of the most complicated aspects of congressional elections are apportionment issues - reapportionment (the allocation of seats in the House to each state after each census) and redistricting (the redrawing of the boundaries of the districts within each state). In a landmark six-to-two vote in 1962, the United States Supreme Court made the districting of state legislative districts a justiciable (that is, reviewable) question. The Court did so by invoking the Fourteenth Amendment principle that no state can deny to any person "the equal protection of the laws." In 1964, the Court held that both chambers of a state legislature must be designed so that all districts are equal in population. Later that year, the Court applied this "one person, one vote" principle to U.S. congressional districts on the basis of Article I, Section 2, of the Constitution, which requires that members of the House be chosen "by the People of the several States."

Severe malapportionment of congressional districts before 1964 resulted in some districts containing two or three times the populations of other districts in the same state, thereby diluting the effect of a vote cast in the more populous districts. This system generally benefited the conservative populations of rural areas and small towns and harmed the interests of the more heavily populated and liberal cities.

Gerrymandering. Although the general issue of apportionment has been dealt with fairly successfully by the one person, one vote principle, the gerrymandering issue has not yet been resolved. This term refers to the legislative-boundary-drawing tactics that were used under Elbridge Gerry, the governor of Massachusetts, in the 1812 elections. A district is said to have been gerrymandered when its shape is altered substantially by the dominant party to maximize its electoral strength at the expense of the minority party.

In 1986, the Supreme Court heard a case that challenged gerrymandered congressional districts in Indiana. The Court ruled for the first time that redistricting for the political benefit of one group could be challenged on constitutional grounds. In this specific case, *Davis v. Bandemer*, however, the Court did not agree that the districts had been drawn unfairly, because it could not be proved that a group of voters would consistently be deprived of influence at the polls as a result of new districts.

In 2004, the United States Supreme Court reviewed an obviously political redistricting scheme in Pennsylvania. The Court concluded, however, that the federal judiciary would not address purely political gerrymandering claims. Two years later, the Supreme Court reached a similar conclusion
with respect to most of the new congressional districts created by the Republicans in the Texas legislature in 2003. Again, except for one district in Texas, the Court refused to intervene in what was clearly a political gerrymandering plan. Still, gerrymandering is widely seen as unfair, and for that reason several states have passed laws aimed at outlawing the process.

How Gerrymandering Works. Congressional and state legislative redistricting decisions are often made by a small group of political leaders within a state legislature. Typically, their goal is to shape voting districts in such a way as to maximize their party's chances of winning state legislative seats, as well as seats in Congress. Two of the techniques in use are called packing and cracking. By employing powerful computers and software, voters supporting the opposing party are "packed" into as few districts as possible or the opposing party's supporters are "cracked" into different districts.

"Minority-Majority" Districts. Under the mandate of the Voting Rights Act of 1965, the Justice Department issued directives to states after the 1990 census instructing them to create congressional districts that would maximize the voting power of minority groups - that is, create districts in which minority group voters were the majority. The result was a number of creatively drawn congressional districts.

Many of these "minority-majority" districts were challenged in court by citizens who claimed that creating districts based on race or ethnicity alone violates the equal protection clause of the Constitution. In 2001, for example, the Supreme Court reviewed, for a second time, a case involving North Carolina's Twelfth District.

The district was 165 miles long, following interstate 85 for the most part. According to a local joke, the district was so narrow that a car traveling down the interstate highway with both doors open would kill most of the voters in the district. In 1996, the Supreme Court had held that the district was unconstitutional because race had been the dominant factor in drawing the district's boundaries. Shortly thereafter, the boundaries were redrawn, but the district was again challenged as a racial gerrymander. In 2001, however, the Supreme Court held that there was insufficient evidence that race had been the dominant factor when the boundaries were redrawn. The Twelfth District's boundaries remained in place.

THE COMMITTEE STRUCTURE

Most of the actual work of legislating is performed by the committees and subcommittees within Congress. Thousands of bills are introduced in every session of Congress, and no single member can possibly be adequately informed on all the issues that arise. The committee system is a way to provide for specialization, or a division of the legislative effort. Members of a committee can concentrate on just one area or topic - such as taxation or energy - and develop sufficient expertise to draft appropriate legislation when needed. The flow of legislation through both the House and the Senate is determined largely by the speed with which the members of these committees act on bills and resolutions.
The Power of Committees

Sometimes called "little legislatures," committees usually have the final say on pieces of legislation. Committee actions may be overturned on the floor by the House or Senate, but this rarely happens. Legislators normally defer to the expertise of the chairperson and other members of the committee who speak on the floor in defense of a committee decision. Chairpersons of committees exercise control over the scheduling of hearings and formal actions on bills. They also decide which subcommittee will act on legislation falling within their committee’s jurisdiction. Committees normally have the power to kill proposed legislation by refusing to act on it - by never sending it to the entire chamber for a vote.

Committees only very rarely are deprived of control over bills - although this kind of action is provided for in the rules of each chamber. In the House, if a bill has been considered by a standing committee for thirty days, the signatures of a majority (218) of the House membership on a discharge petition can pry a bill out of an uncooperative committee’s hands. From 1909 to 2012, however, although over nine hundred such petitions were initiated, only slightly more than two dozen resulted in successful discharge efforts. Of those, twenty resulted in bills that passed the House.

Types of Congressional Committees

Over the past two centuries, Congress has created several different types of committees, each of which serves particular needs of the institution.

Standing Committees. By far, the most important committees in Congress are the standing committees - permanent bodies that are established by the rules of each chamber and that continue from session to session. In addition, most of the standing committees have created subcommittees to carry out their work. For example, the 113th Congress has 73 subcommittees in the Senate and 104 in the House. Each standing committee is given a specific area of legislative policy jurisdiction, and almost all legislative measures are considered by the appropriate standing committees.

Because of the importance of their work and the traditional influence of their members in Congress, certain committees are considered to be more prestigious than others. Seats on standing committees that handle spending issues are especially sought after because members can use these positions to benefit their constituents. Committees that control spending include the Appropriations Committee in either chamber and the Ways and Means Committee in the House. Members also normally seek seats on committees that handle matters of special interest to their constituents. A member of the House from an agricultural district, for example, will have an interest in joining the House Agricultural Committee.

Select Committees. In principle, a select committee is created for a limited time and for a specific legislative purpose. For example, a select committee may be formed to investigate a public problem, such as child nutrition or aging. In practice, a select committee, such as the Select
Committee on Intelligence in each chamber, may continue indefinitely. Select committees rarely create original legislation.

Joint Committees. A joint committee is formed by the concurrent action of both chambers of Congress and consists of members from each chamber. Joint committees, which may be permanent or temporary, have dealt with the economy, taxation, and the Library of Congress.

Conference Committees. Special joint committees - conference committees - are formed for the purpose of achieving agreement between the House and the Senate on the exact wording of legislative acts when the two chambers pass legislative proposals in different forms. No bill can be sent to the White House to be signed into law unless it first passes both chambers in identical form. Conference committees are in a position to make significant alterations to legislation and frequently become the focal point of policy debates.

The House Rules Committee. Due to its special "gatekeeping" power over the terms on which legislation will reach the floor of the House of Representatives, the House Rules Committee holds a uniquely powerful position. A special committee rule sets the time limit on debate and determines whether and how a bill may be amended. The Rules Committee has the unusual power to convene while the House is meeting as a whole, to have its resolutions considered immediately on the floor and to initiate legislation on its own.

The Selection of Committee Members

In both chambers, members are appointed to standing committees by the steering committee of their party. The majority-party member with the longest term of continuous service on a standing committee is given preference when the committee selects its chairperson. The most senior member of the minority party is called the ranking committee member for that party. This seniority system is not required by law but is an informal, traditional process, and it applies to other significant posts in Congress as well. The system, although it deliberately treats members unequally, provides a predictable means of assigning positions of power within Congress.

The general pattern until the 1970s was that members of the House or Senate who represented safe seats would be reelected continually and eventually could accumulate enough years of continuous committee service to enable them to become the chairpersons of their committees. In the 1970s, reforms in the chairperson selection process somewhat modified the seniority system in the House. The reforms introduced the use of a secret ballot in electing House committee chairpersons and allowed for the possibility of choosing a chairperson on a basis other than seniority. The Democrats immediately replaced three senior chairpersons who were out of step with the rest of their party. In 1995, under Speaker Newt Gingrich, the Republicans chose relatively junior House members as chairpersons of several key committees, thus ensuring conservative control of the committees. The Republicans also passed a rule limiting the term of a chairperson to six years.
THE FORMAL LEADERSHIP

The limited amount of centralized power that exists in Congress is exercised through party-based mechanisms. Congress is organized by party. When the Democratic Party, for example, wins a majority of seats in either the House or the Senate, Democrats control the official positions of power in that chamber, and every important committee has a Democratic chairperson and a majority of Democratic members. The same process holds when Republicans are in the majority.

Leadership in the House

The House leadership is made up of the Speaker, the majority and minority leaders, and party whips.

The Speaker. The foremost power holder in the House of Representatives is the Speaker of the House. The Speaker's position is technically a nonpartisan one, but in fact, for the better part of two centuries, the Speaker has been the official leader of the majority party in the House. When a new Congress convenes in January of odd-numbered years, each party nominates a candidate for Speaker. All Republican members of the House are expected to vote for their party's nominee, and all Democrats are expected to support their candidate. The vote to organize the House is the one vote in which representatives must vote with their party. In a sense, this vote defines a member's partisan status.

The major formal powers of the Speaker include the following:

* Presiding over meetings of the House.
* Appointing members of joint committees and conference committees.
* Scheduling legislation for floor action.
* Deciding points of order and interpreting the rules with the advice of the House parliamentarian.
* Referring bills and resolutions to the appropriate standing committees of the House.

A Speaker may take part in floor debate and vote, as can any other member of Congress, but recent Speakers usually have voted only to break a tie.

The Majority Leader. The majority leader of the House is elected by a caucus of the majority party to foster cohesion among party members and to act as a spokesperson for the party. The majority leader influences the scheduling of debate and acts as the chief supporter of the Speaker. The majority leader cooperates with the Speaker and other party leaders, both inside and outside Congress, to formulate the party's legislative program and to guide that program through the legislative process in the House. The parties have often recruited future Speakers from those who hold the position of majority leader.
The Minority Leader. The minority leader of the House is the candidate nominated for Speaker by a caucus of the minority party. Like the majority leader, the leader of the minority party has as her or his primary responsibility the maintaining of cohesion within the party's ranks. The minority leader works for cooperation among the party's members and speaks on behalf of the president if the minority party controls the White House. In relations with the majority party, the minority leader consults with both the Speaker and the majority leader on recognizing members who wish to speak on the floor, on House rules and procedures, and on the scheduling of legislation. Minority leaders have no actual power in these areas, however.

Whips. The leadership of each party includes assistants to minority and majority leaders, known as whips. The whips are members of Congress who assist the party leaders by passing information down from the leadership to party members and by ensuring that members show up for floor debate and cast their votes on important issues. Whips conduct polls among party members about the members' views on legislation, inform the leaders about whose vote is doubtful and whose is certain, and may exert pressure on members to support the leaders' positions.

Leadership in the Senate

The Senate is less than one-fourth the size of the House. This fact alone probably explains why a formal, complex, and centralized leadership structure is not as necessary in the Senate as it is in the House.

The two highest-ranking formal leadership positions in the Senate are essentially ceremonial in nature. Under the Constitution, the vice president of the United States is the president (that is, the presiding officer) of the Senate and may vote to break a tie. The vice president, however, is only rarely present for a meeting of the Senate. The Senate elects instead a president pro tempore ("pro tem") to preside over the Senate in the vice president's absence. Ordinarily, the president pro tem is the member of the majority party with the longest continuous term of service in the Senate. As mentioned, the president pro tem is mostly a ceremonial position. More junior senators take turns actually presiding over the sessions of the Senate.

The real leadership power in the Senate rests in the hands of the Senate majority leader, the Senate minority leader, and their respective whips. The Senate majority and minority leaders have the right to be recognized first in debate on the floor and generally exercise the same powers available to the House majority and minority leaders. They control the scheduling of debate on the floor in conjunction with the majority party's policy committee, influence the allocation of committee assignments for new members or for senators attempting to transfer to a new committee, influence the selection of other party officials, and participate in selecting members of conference committees. The leaders are expected to mobilize support for partisan legislative or presidential initiatives. They act as liaisons with the White House when the president is of their party, try to obtain cooperation of committee chairpersons, and seek to facilitate the smooth functioning of the Senate through the senators' unanimous consent. The majority and minority leaders are elected by their respective
party caucuses. Senate party whips, like their House counterparts, maintain communication within the party on platform positions and try to ensure that party colleagues are present for floor debate and important votes. The Senate whip system is far less elaborate than its counterpart in the House, because there are fewer members to track and senators have a greater tradition of independence.

**LAWMAKING AND BUDGETING**

Each year, Congress and the president propose and approve many laws. Some are budget and appropriations laws that require extensive bargaining but must be passed for the government to continue to function. Other laws are relatively free of controversy and are passed with little dissension. Still other proposed legislation is extremely controversial and reaches to the roots of differences between Republicans and Democrats.

Each law begins as a bill, which must be introduced in either the House or the Senate. Often, similar bills are introduced in both chambers. A "money bill," however, must start in the House. In each chamber, the bill follows similar steps. It is referred to a committee and its subcommittees for study, discussion, hearings, and markup (rewriting). When the bill is reported out to the full chamber, it must be scheduled for debate (by the Rules Committee in the House and by the leadership in the Senate). After the bill has been passed in each chamber, if it contains different provisions, a conference committee is formed to write a compromise bill, which must be approved by both chambers before it is sent to the president to sign or veto.

**How Much Will the Government Spend?**

The Constitution is very clear about where the power of the purse lies in the national government: all taxing or spending bills must originate in the House of Representatives. Today, much of the business of Congress is concerned with approving government expenditures through the budget process and with raising the revenues to pay for government programs.

From 1922, when Congress required the president to prepare and present to the legislature an executive budget, until 1974, the congressional budget process was so disjointed that it was difficult to visualize the total picture of government finances. The president presented the executive budget to Congress in January. It was broken down into thirteen or more appropriations bills. Some time later, after all of the bills had been debated, amended, and passed, it was more or less possible to estimate total government spending for the next year.

Frustrated by the president's ability to impound, or withhold, funds and dissatisfied with the entire budget process, Congress passed the Budget and Impoundment Control Act of 1974 to regain some control over the nation's spending. The act required the president to spend the funds that Congress had appropriated, ending the president's ability to kill programs by withholding funds. The other major result of the act was to force Congress to examine total national taxing and spending at least twice in each budget cycle.
Even though Congress has a firm grasp on what the federal government's revenues and expenditures will be, it does not follow that the federal budget will be balanced.

The budget cycle of the federal government is described in the rest of this section.

Preparing the Budget. The federal government operates on a **fiscal year** (FY) cycle. The fiscal year runs from October through September, so that fiscal year 2014, or FY14, runs from October 1, 2013 through September 30, 2014. Eighteen months before a fiscal year starts, the executive branch begins preparing the budget. The Office of Management and Budget (OMB) receives advice from the Council of Economic Advisers and the Treasury Department. The OMB outlines the budget and then sends it to the various departments and agencies. Bargaining follows, in which - to use only two of many examples - the Department of Health and Human Services argues for more welfare spending, and the armed forces argue for more defense spending.

Even though the OMB has fewer than 550 employees, it is one of the most powerful agencies in Washington. It assembles the budget documents and monitors federal agencies throughout each year. Every year, it begins the budget process with a **spring review**, in which it requires all of the agencies to review their programs, activities, and goals. At the beginning of each summer, the OMB sends out a letter instructing agencies to submit their requests for funding for the next fiscal year. By the end of the summer, each agency must submit a formal request to the OMB.

In actuality, the "budget season" begins with the **fall review**. At this time, the OMB looks at budget requests and, in almost all cases, routinely cuts them back. Although the OMB works within guidelines established by the president, specific decisions often are left to the OMB director and the director's associates. By the beginning of November, the director's review begins. The director meets with cabinet secretaries and budget officers. Time becomes crucial. The budget must be completed by January so that it can be included in the **Economic Report of the President**.

The Election-Year Budget. The schedule just described cannot apply to a year in which the voters elect a new president or to a year in which a new president is inaugurated. In 2008, George W. Bush did not engage in a fall review of the FY 2010 budget, because he would no longer be in office when the budget went into effect in October 2009. Barack Obama could hardly have undertaken the fall review either, given that he was still campaigning for the presidency.

Following the election of a new president, the budget process is compressed into the first months of the new administration. Indeed, Barack Obama released a budget document for FY 2010 on February 26, 2009, barely a month after he was inaugurated.

Congress Faces the Budget. In January, nine months before the fiscal year starts, the president takes the OMB's proposed budget, approves it, and submits it to Congress. Then the congressional budget process takes over. The budgeting process involves two steps. First, Congress must authorize funds to be spent. The **authorization** is a formal declaration by the appropriate congressional committee that a certain amount of funding may be available to an agency.
Congressional committees and subcommittees look at the proposals from the executive branch and the Congressional Budget Office in making the decision to authorize funds.

After the funds have been authorized, they must be appropriated by Congress. The appropriations committees of both the House and the Senate forward spending bills to their respective bodies. The appropriation of funds occurs when the final bill is passed. In this process, large sums are in play. Representatives and senators who chair key committees traditionally found it relatively easy to slip additional spending proposals into a variety of bills. These proposals may have nothing to do with the ostensible purpose of the bill. Such earmarked appropriations, known as "pork," have their defenders. Many members of Congress believe that they have a better understanding of the needs of their districts than does any executive branch agency.

In March 2010, the Republican-controlled House implemented rules designed to eliminate earmarks. The new rules have substantially reduced the amount of pork inserted into appropriations bills, but lawmakers have been creative in attempting to circumvent the ban. In some instances, legislators have simply denied that a particular funding request is actually an earmark. More commonly, members have lobbied the various executive agencies to include projects that benefit their districts. According to the OMB definition, spending requested by executive agencies is not pork. Further, the White House itself frequently inserts special requests into the executive budget, thus making the president the biggest "porkmeister" of all.

Budget Resolutions. The first budget resolution by Congress is due in May. It sets overall revenue goals and spending targets. Spending and tax laws that are drawn up over the summer are supposed to be guided by the first budget resolution. By September, Congress is scheduled to pass its second budget resolution, one that will set binding limits on taxes and spending for the fiscal year beginning October 1.

In actuality, Congress has finished the budget on time in only three years since 1977. The budget is usually broken up into a series of appropriations bills. If Congress has not passed one of these bills by October 1, it normally passes a continuing resolution that allows the affected agencies to keep on doing whatever they were doing in the previous year with the same amount of funding. By the 1980s, continuing resolutions had ballooned into massive measures.

Budget delays reached a climax in 1995 and 1996, when, in a spending dispute with Democratic president Bill Clinton, the Republican Congress refused to pass any continuing resolutions. As a result, some nonessential functions of the federal government were shut down for twenty-seven days. Since 1997, Congress has generally managed to limit continuing resolutions to their original purpose. That does not mean, however, that such resolutions have been easy to pass. The government again came very close to a partial shutdown in April 2011, when the two parties reached a budget deal only hours before the deadline.

**DID YOU KNOW?**
- Fewer than three in ten people can name the House member from their district, and fewer than half can name even one of the two senators from their state.

- Felons are not barred from serving in Congress, though a chamber can expel a convicted member by a two-thirds vote.

- Before the Republicans reorganized House services in 1995, all members had buckets of ice delivered to their offices each day, at an annual cost of $500,000.

- The most recently constructed dormitory for Senate pages cost about $8 million, or $264,200 per bed, compared with the median cost of a university dormitory of $22,600 per bed.

- One result of President Obama’s 2008 election was that thirty-two African Americans ran for Congress as Republicans in 2010, the largest number to run as Republicans since the years following the Civil War.

- The Constitution does not require that the Speaker of the House of Representatives be an elected member of the House.