



# 掌握航向

# 美国是怎样制订政策的

# STEERING THE COURSE

# Policymaking in the United States

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# Introduction

**Policymaking in the United States is not a tidy matter. Few issues are decided by fiat. In some democracies, such as those with parliamentary structures, the leader of the government has prior assurance that the legislators will back his or her policies. In the United States, the President must persuade the Congress that a position is correct, whether or not a majority of the Congress is of the same political party as the President.**

**The United States is a republic in which voters participate through their elected representatives; even the direct votes for President are recorded through a federalist framework by which all votes of a state go to one or another candidate, even if that candidate carried the state by a slim margin. Nevertheless, the opinions of the people are heard and considered; in most matters, official policy reflects a consensus of views.**

**Because of the Constitution's system of checks and balances—its divisions of power—policy is often a reconciliation of differences, a distillation of compromise. Consequently, many people in the United States and abroad find the system hard to understand—or understanding it, they express doubts that the system can work effectively.**

**This publication presents a number of articles by prominent authorities on elements of the mix that goes into U.S. government policy. These articles examine how various parts of the government actually function in relation to one another and how citizens influence local and national policy. They suggest the complexity of the system and emphasize ways in which it is constantly evolving.**

**The course of the American ship of state was charted by the Constitution; since then, many pilots have taken the steering wheel. They have had to maneuver the ship to avoid unforeseen shoals and shallows. They have taken aboard new cargo and jettisoned some outmoded gear. The basic charter under which they sail has been flexible enough to accommodate rough weather and doldrums. The destination may be far off, but it is clearly envisioned.**

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## 1. HOW THE GOVERNMENT MAKES POLICY

# Policymaking and Congressional Powers

By Walter J. Oleszek

Walter J. Oleszek, specialist in American national government at the Congressional Research Service at the Library of Congress in Washington, D.C., writes:

“Lawmaking is Congress’ most basic response to the entire range of national concerns, from agriculture to housing, environment to national defense, health to the economy. The process by which Congress transforms an idea into national policy ... is complicated and variable, but it is governed by rules, procedures, precedents, and customs, and is open to the use of some generally predictable strategies and tactics...”

“Any decisionmaking body, Congress included, needs a set of rules, procedures, and conventions, formal and informal in order to function. In the case of Congress, the Constitution authorizes the House and Senate to formulate their own rules of procedure. Thomas Jefferson, who as Vice-President, compiled the first parliamentary manual for the United States Senate, emphasized the importance of rules to any legislative body:

*It is much more material that there should be a rule to go by, than what the rule is; that there may be uniformity of proceeding in business not subject to the caprice of the Speaker or the captiousness of the members. It is very material that order, decency and regularity be preserved in a dig-*

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*nified public body."*

In the following article, excerpted from his book, *Congressional Procedure and Policy Process*, Oleszek explains the rules by which Congress operates. He also examines how a bill is passed and the pressures Congress faces in formulating policy.

**L**ike universities, Congress distributes power according to its rules and customs. Informal party rules, for example, establish a hierarchy of leadership positions in both chambers. And House and Senate rules accord prerogatives to congressional committee chairmen that are unavailable to non-committee leaders. Rules are, therefore, not neutral devices. They help to shore up the more powerful members as well as protect the rights of the minority. Thus, efforts to change the rules are almost invariably efforts to redistribute power.

Rules play similar, but not identical, roles in most complex organizations. Congress has its own characteristics that affect the functions of the rules. First, members of Congress owe their positions to the electorate, not to their congressional peers or to influential congressional leaders. No one in Congress has authority over the other members comparable to that of university presidents and tenured faculty over junior faculty or to that of a corporation president over lower level executives. Members cannot be fired except by their constituency. And each member has equal voting power in committees and on the floor of the House or Senate.

Congress' rules, unlike those of many organizations, are especially sensitive to the rights of *minorities*, including the minority party, ideological minorities, and individual members. Skillful use of the rules enables the minority to check majority action by delaying, defeating, or reshaping legislation. Intensity often counts as much as numbers—an apathetic majority may find it difficult to prevail over a well-organized minority. Except in the few instances when extraordinary majorities are needed, such as overriding presidential vetoes (two-thirds), Senate ratification of treaties (two-thirds), and the decision to stop extended debate in the Senate (three-fifths), the rules of the House and Senate require a

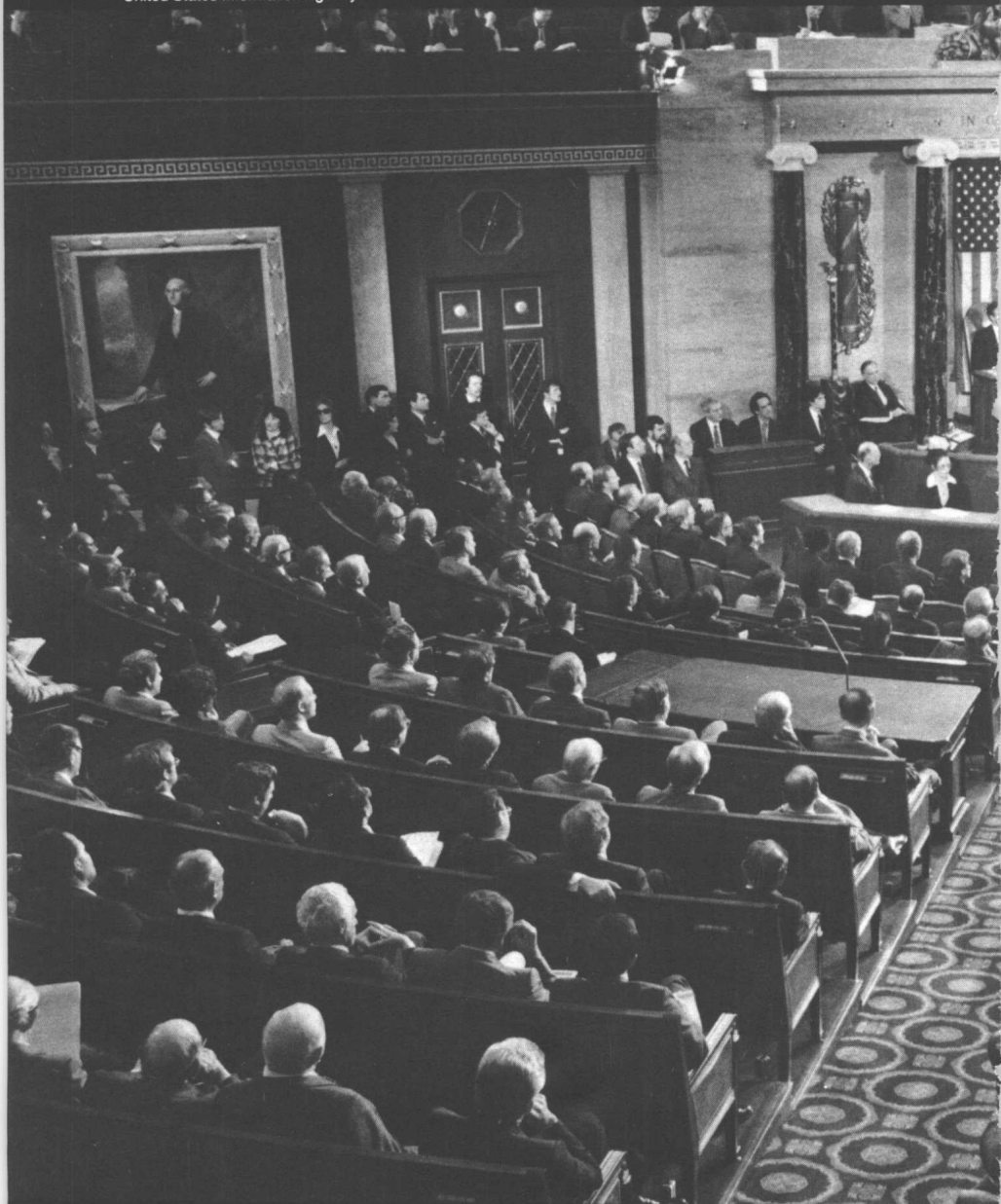
simple majority to decide public policies.

Congress is also different from other organizations in its degree of responsiveness to external groups and pressures. The legislative branch is not as self-contained an institution as a university or a corporation. Congress is involved with every significant national and international issue. Its agenda compels members to respond to changing constituent interests and needs. Congress is also subject to numerous other influences, such as the President, pressure groups, political parties, and state and local officials.

Finally, Congress is a collegial and not a hierarchical body. Power does not flow from the top down, as in a corporation, but in practically every direction. There is only minimal centralized authority at the top; congressional policies are not "announced" but are "made" by shifting coalitions that vary from issue to issue. Congress' deliberations are also more accessible and public than those of perhaps any other kind of organization. These are some of the characteristics that set Congress apart from other organizations; inevitably these differences affect the decisionmaking process.

Legislative procedures and policymaking are inextricably linked in at least four ways. First, procedures affect policy outcomes. Congress processes legislation by complex rules and procedures that permeate the institution and touch every public policy. Some matters are only gently brushed by the rules, while others become locked in their grip. Major civil rights legislation, for example, failed for decades to pass Congress because southern senators used their chamber's rules and procedures to kill or modify such measures.

A second point is that very often policy decisions are expressed as procedural moves. Representatives and senators, on various occasions, prefer not to make clear-cut decisions on certain complex and far-reaching public issues. Should a major weapons system be continued or curtailed? Should the nation's energy production needs take precedence over environmental concerns? Should financial assistance for the elderly be reduced and priority be given to aiding disadvantaged children? On questions like these, members may be "cross-pressured" (the President might be exerting influence one way while constituent interests dictate the opposite). Legislators may lack adequate information to make informed judgments. They may be reluctant to oppose power-



*On significant occasions, members of Congress—435 representatives and 100 senators—hold a joint session in the Capitol's House of Representatives, often attended by other important government officials.*

ful pressure groups. Or the issue, they believe, does not lend itself to a simple "yes" or "no" vote.

As a result, legislators employ various procedural devices to handle knotty problems. A matter may be postponed on the ground of insufficient committee hearings. Congress may direct an agency to prepare a detailed report before an issue is considered. Or a measure may be "tabled" by the House or Senate, a procedural vote that effectively defeats a proposal without rendering a judgment on its substance.

Third, the nature of the policy can determine the use of certain procedures. The House and Senate generally consider noncontroversial measures under expeditious procedures, whereas controversial proposals normally involve lengthy deliberation. Extraordinary circumstances might prompt Congress to invoke rarely-used practices to enact legislation with dispatch.

Finally, policy outcomes are more likely to be influenced by members with procedural expertise. Members who are skilled parliamentarians are better prepared to gain approval of their proposals than those who are only vaguely familiar with the rules. Just as carpenters and lawyers must learn their trade, members of Congress need to understand the rules if they expect to perform effectively.

Congress is regulated not only by formal rules, but also by informal ones that influence legislative procedure and member behavior. Two types of informal rules are precedents and "folkways." Precedents, the accumulated past decisions on matters of procedure, represent a blend of the formal and informal. They are the "common law" of Congress and govern many procedures not explicitly covered in the formal rules.

Folkways, on the other hand, are unwritten norms of behavior that members are expected to observe. Several of the more important are "legislative work" (members should concentrate on congressional duties and not be publicity seekers), "courtesy" (members should be solicitous toward their colleagues and avoid personal attacks on them), and "specialization" (members should master a few policy areas and not try to be a "jack of all trades"). Those who abide by these and other norms are often rewarded with increased influence in the policy process, for example, by being appointed to prestigious committees. Conversely, legislators who

persistently violate Congress' informal customs are apt to see legislation they support blocked in committee or on the floor.

Congress' decentralized character reflects both political and structural realities. Politically, legislators owe their reelection to voters in widely differing states and localities; structurally, the legislative branch has an elaborate division of labor to help it manage its immense workload. Responsibility for specific subject areas is dispersed among numerous committees and subcommittees (more than 300 in the two chambers).

Structural decentralization means that policymaking is subject to various disintegrative processes. Broad issues are divided into smaller subissues for consideration by the committees. Overlapping and fragmentation of committee responsibilities can impede the development of comprehensive and coordinated national policies. More than a dozen House committees, for example, consider some aspect of the energy issue. Jurisdictional controversies occur as committees fight to protect their "turf." Finally, committees develop special relationships with pressure groups and executive agencies. These alliances, often called "subgovernments," dominate numerous policy areas. Committees, then, become advocates of policies and not simply impartial instruments of the House or Senate.

In theory, political parties could provide the cohesive force to balance the centrifugal influences of a fragmented committee system. For the most part, the reality is much different. Parties serve to organize their members and elect the formal leaders. From time to time, congressional Democrats and Republicans meet in policy committees and caucuses to discuss policy issues. Neither party, however, commands the consistent support of all its members. Too many countervailing pressures (constituency, individual conscience, career considerations, or committee loyalty) influence the actions of representatives and senators. As a result, public policies usually are enacted because diverse elements of both parties temporarily coalesce to achieve common goals.

Although Congress can on occasion act quickly, normally legislation must pass successfully through multiple decision points. One congressional report identified more than 100 specific steps that might mark a "bill's progress through the Congress, from introduction to possible enact-

ment into law.” After a bill is introduced, it is referred to committee and then frequently to a subcommittee. The views of executive departments and agencies are often solicited. Hearings are held and reports on the bill are issued by the subcommittee and full committee. The bill is then “reported out” and scheduled for consideration by all the members. After floor debate and final action in one chamber, the same steps are generally repeated in the other house. At any point in this sequential process, the bill is subject to delay, defeat, or modification. “It is very easy to defeat a bill in Congress,” noted former President Kennedy. “It is much more difficult to pass one.”

Congressional procedures require bills to overcome numerous hurdles before they can become law. At each stage, measures and procedures must receive majority approval. All along the procedural route, therefore, strategically located committees, groups, or individuals can delay, block, or change proposals if they can form majority coalitions. Bargaining may be necessary at each juncture in order to build the majority coalition that advances the bill to the next step in the legislative process.

There are three principal forms of bargaining used to build majority coalitions—logrolling, compromise, and non-legislative favors. Logrolling is an exchange of voting support on different bills by different members of Congress. It is an effective means of coalition building because members are rarely equally concerned about all the measures before Congress.

Compromise, unlike logrolling, builds coalitions through negotiation over the content of legislation. Each side agrees to modify policy goals on a given bill in a way that is generally acceptable to the other. A middle ground is often found—particularly with bills involving money.

Nonlegislative favors are useful because policy goals are only one of the many objectives of members of Congress. Other objectives include assignments to a prestigious committee, getting reelected, running for higher office, obtaining larger office space and staff, or even being selected for a conference abroad. The wide variety of these non-policy objectives creates numerous bargaining opportunities—particularly for party leaders, who can dispense many favors—from which coalitions may be built.

Each bill introduced in Congress must pass both the House and the Senate in identical form within the two-year congressional term in order to become law. In fact, because Congress normally adjourns prior to the end of the two-year term, bills usually have less than two years to become law. Bills that have not completed the required procedural journey prior to final adjournment of a Congress automatically die and must be reintroduced in the new Congress. Inaction or postponement at any stage of the process can ultimately mean the defeat of a bill.

Many measures considered by Congress come up in cycles. Much of Congress' annual agenda is filled with legislation required each year to finance the activities of federal agencies and programs. Generally, this kind of legislation appears regularly on the congressional agenda at the same time each year. Other legislation comes up for renewal every few years.

Complex legislation is often introduced early because it takes longer to process than a simple bill. A disproportionately large number of major bills are enacted during the last few weeks of a Congress. Compromises that were not possible in July can be made in December. By this time—with the two-year term about to expire—the pressures on members of the House and Senate are intense.

Finally, many ideas require years or even decades of germination before they are enacted into law. Controversial proposals—reintroduced in successive Congresses—may need a four-, six-, or eight-year period before enactment. Many of the 1960s policies of Presidents Kennedy and Johnson, for example, were first considered during the Congresses of the 1950s.

## Pressures on Congress

In making their legislative decisions, members of Congress are influenced by numerous pressures—from their constituents, the White House, the news media, lobbyists and organized interest groups, and their own party leadership and colleagues. These pressures are a central feature of the congressional environment; they affect the formal procedures and rules of Congress. All of these pressures are present in varying degrees in every step of the legislative process; the



*Conferees from the House and Senate debate provisions of a strip-mining bill; they must agree on an identical version of the bill, which is then voted on by both houses of Congress.*



interests and influence of groups and individuals outside Congress have a considerable impact on the fate of a bill.

The executive branch constitutes one of the most important sources of external pressure exerted on Congress. There is an ongoing institutional struggle between the executive and legislative branches. Sometimes the rivalry is seen as no more than a means by which members of Congress develop public stature by demonstrating their ability to thwart the President's objectives. British political scientist Harold Las-ki subscribed to such a view when he wrote, "There can be no doubt that in its own eyes, Congress establishes its prestige when it either refuses to let the President have his own way, or compels him to compromise with it."

Many of the President's legislative functions and activities are not mentioned in the Constitution. For example, the President is able to influence congressional action through the manipulation of patronage, the allocation of federal funds and projects that may be vital to the reelection of a member of Congress, and the handling of constituents' cases in which senators and representatives are interested. As leader of the Democratic or Republican Party, the President is the party's chief election campaigner. As the leading political figure, the President occupies a strategic position for promoting broad coalitions of social groups and interests. The President also has ready access to the news media for promoting administration policy and commanding headlines.

The President's role as legislative leader, however, derives from the Constitution. While the Constitution vests "all legislative powers" in Congress, it also directs the President to "give to the Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient." This function has been broadened; the President presents to Congress each year, in addition to his State of the Union message, two other general statements of presidential aims—an economic report including proposals directed to the maintenance of maximum employment, and a budget message outlining appropriations proposals. And during a typical session, the President transmits to Congress scores of other legislative proposals, some on his own initiative or that of his Cabinet officials, and others in conformity with various statutes.

Another legislative vehicle for presidential leadership in