

# ENACTING LEGISLATION OF CONCERN TO OVERSEAS AMERICAS IN THE U.S. CONGRESS

## The Challenges of this Complicated Multi-step Process

### Step 1: Introducing a New Proposal

The first step in the enactment of new legislation is the necessity to formally bring a proposal before the House or Senate. Such new legislation comes in two basic forms, either via bills or via resolutions.

- **Bills** are used to create or reform public policy.
- **Resolutions** are used to express a sentiment of Congress and also to appropriate money.

Resolutions come in three forms:

- Simple
- Joint
- Concurrent.

Constitutional amendments originate in either the House or the Senate as a proposed joint resolution.

### Step 2: Formal Identification of the New Proposal

Anyone, at home or abroad, can propose a new idea for a bill or a resolution. But only a Member of Congress (including Delegates) can formally introduce such a new measure. Once new legislation has been introduced it is assigned an identifying number. Proposals introduced in the House are designated H.R. \_\_\_\_\_. Those introduced in the Senate begin with S.\_\_\_\_\_.

According to the Constitution, all legislation to appropriate money must originate in the House.

### Step 3: Assignment of the Proposal to a Committee

When new legislation has been introduced it is sent to the committee that has jurisdiction over this particular subject.

- Sometimes a bill is sent to just one committee. This is called a *single* referral.
- A bill can involve issues of more than one committee and can be sent simultaneously to several different committees. This is called *multiple* or *joint* referral.
- A third option is for a bill to move from one committee to another. This is called a *sequential* referral.
- A fourth option is for different parts of a bill to be sent simultaneously to several different committees. This is called a *split* referral.

Since most of the real work on a bill takes place at the committee level, each committee has a great deal of power to decide which bills will receive the most attention and the highest priorities.

Internal and external support for a bill will determine how much attention will be paid to each such new proposal. Here the role of Congressional and Committee leadership comes directly into play. Support from the President can also play a very important role here.

#### **Step 4: Assignment to a Sub-Committee**

After a bill is received by a Committee, it usually will assign the bill to an appropriate sub-Committee. Each sub-committee has a more narrow range of responsibility. Once assigned to a sub-committee, there are three basic steps that need to take place for the enactment process to occur.

- **Sub-Committee Hearings:** These hearings involve the calling of witnesses to testify about the merits and shortcomings of proposed new legislation. The testimonies and the subsequent questions at these hearings are normally prepared in advance and become part of the official record of each sub-committee. Testimony both for and against new legislation is usually standard practice.
- **Mark-Up:** Once the hearings have been held and other committee preparatory work has been completed, Members of the sub-committee offer their own views and suggest changes. The proposed amendments do not have to be related to the subject of the overall bill at this stage.
- **Reporting Out:** When a sub-committee has completed the mark up of the new legislation a final draft is submitted to a vote. If a majority votes in favor of a bill, it is then "reported out" and goes back to the full Committee. If a majority vote is lacking, the bill normally dies.

#### **Step 5: Return Back to the Full Committee**

After a bill has been approved by a majority vote in a sub-committee, it usually goes through the same steps once again at the full committee level.

- **Full Committee Hearings:** These hearings once again can involve the calling of witnesses to testify about the merits and shortcomings of proposed new legislation. The testimonies and the subsequent questions at these hearings are normally prepared in advance and become part of the official record of each sub-committee. Testimony both for and against new legislation is usually standard practice.
- **Mark-Up:** Once the full committee hearings have been held and other committee preparatory work has been completed, Members of the full committee offer their own views and suggest changes. The proposed amendments do not have to be related to the subject of the overall bill at this stage.
- **Reporting Out:** When the full committee has completed the mark up of the new legislation a final draft is submitted to a vote. If a majority votes in favor of a bill, it is then "reported out" and goes back to the full House or Senate for final approval. If a majority vote is lacking, the bill normally dies.

#### **Step 6: Publication of a Committee Report**

Following the approval of a bill by the full committee, the committee chair instructs the staff of the committee to prepare a report on the bill. This report indicates the intent of the legislation, the effect it will have on existing laws, regulations and programs, and includes the views of dissenting members.

#### **Step 7: Action on the Floor of the Full Body of the House and Senate**

Upon the approval of new legislation by a committee and the publication of a committee report, the bill has to be placed on the House or Senate calendar. This is the prelude to a debate by the full chamber of either body.

**In the House:** The Rules Committee sets the terms and conditions for each debate in the House. The Rules Committee can place limits the time that will be allowed for a debate and also on the type and number of amendments that can be offered. If the Rules Committee does not issue a rule on a bill, there is little chance of the bill ever getting onto the floor for debate and it normally dies at this stage. When a bill does get to the floor the supporters and opponents have a chance to speak for or against passage. Amendments offered at this stage of the legislative process have to be germane, or at least related to the main subject of the legislation. When debate is concluded a vote is taken to approve or defeat the bill.

**In the Senate:** The procedures are less formal or strict in this body. The terms of a debate are often set out in a Unanimous Consent Agreement which is negotiated by the party leaders. It is a long established and usually carefully protected tradition that any Senator has the right to filibuster, or speak against a particular piece of legislation, for as long a period as the Senator desires. The only way to end a filibuster is by invoking closure which requires at least 60 Senators to vote to end the debate. When the debate ends, a vote is taken to approve or defeat the bill.

### **Step 8: A Joint House-Senate Conference Committee**

Since most bills, other than appropriations, can originate in either chamber of the Congress, when one body has approved a bill it must move to the other body to repeat the approval process.

Often very similar bills are moving through both houses at the same time. Since both chambers must approve new legislation in exactly the same form and language before it can be sent to the President for final approval, the House and Senate will usually form a conference committee to reconcile differences between their two bills.

Both chambers may instruct the members of such joint committees on acceptable compromises that can be made to reach mutual agreement on identical language. Once all of these differences are finally resolved a Joint Conference Committee report is prepared and issued.

### **Step 9: Final Votes on Identical Language in Both Chambers of the Congress**

When the final compromise language has been received by the House and Senate, both bodies must once again vote to accept this final version of the proposed new legislation in this final form.

### **Step 10: Action Options of the President of the United States**

When the President receives new legislation from the Congress there are four options:

- Sign the bill and it becomes a new federal law of the United States.
- Veto the bill and send it back to the Congress with suggestions for changes and reconsideration.
- If the Congress is still in session, take no action and the bill will become law automatically in ten days.
- If the Congress has adjourned for the session, take no action and the bill will die. This is called a "pocket veto".

### **Step 11. A Congressional Override of a Presidential Veto**

If the President of the United States vetoes a bill approved by the Congress, the Congress can override this veto. But to override a Presidential veto there must be a two-thirds vote in both chambers.

## **OBSERVATIONS AND CONCLUSIONS**

While it is usually not too difficult to get a bill or resolution introduced by a friendly and cooperative Member of the House or Senate, it is another thing entirely to get this new initiative all the way through this incredible and time consuming process to reach final enactment and become a new law.

That is why it is so important to have innovative, dedicated and courageous shepherds within both bodies of the Congress to overcome all of these hurdles.

Often constituents naively assume that once a new bill is introduced the rest will be easy. During each new Congress many hundreds of new bills are introduced. Only a very modest number ever make it through this entire process to final passage and entry into the statute books.

That is why having directly elected participants in the Congress mean so much to each geographical constituency back home, and why any real hope for meaningful redress of our myriad issues overseas could also be greatly enhanced by having our own directly elected participants fighting uniquely for us every step of the way in this same immensely challenging and time consuming process.