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ABORTION POLICY

Abortion has long been one of the most volatile issues in politics, with Congress enmeshed in many of its debates. Since the landmark 1973 *Roe v. Wade* decision, in which the court concluded that the Constitution protects a woman's decision to terminate her pregnancy, more than one thousand different legislative proposals have been introduced, the Congressional Research Service said in 2019.

That same year, public support for abortion reached a twenty-four-year high, with a majority of Americans saying abortion should be legal in most or all cases, according to the Pew Research Center. A January 2020 Kaiser Family Foundation poll found that 67 percent of Americans believed state abortion regulations are designed to make access to the procedures more difficult rather than to protect women.

For decades, opponents of abortion rights have tried to get Congress and the Supreme Court to weaken or overturn *Roe v. Wade*. But Congress has not done so, and those opponents have turned their focus on the states—supporting new regulations for abortion clinics, anti-abortion candidates for the legislatures, and shorter periods during a pregnancy when legal abortions can be performed.

The issue is significant for Medicaid recipients. As of early 2021, thirty-three states and the District of Columbia followed the federal standard and only provide funding for abortions in the case of rape or incest or to save the life of the woman—plus South Dakota, which has more restrictive standards, according to the Kaiser Family Foundation. The other states had less restrictive standards for funding abortions through Medicaid.

With some states such as Alabama, Georgia, and Missouri taking aggressive steps to restrict abortions in recent years, some in Congress have called for an aggressive counterreaction. In 2019, New Jersey Democratic senator Cory Booker said on the presidential campaign trail that, if elected president, he would pursue

legislation that would guarantee abortion rights nationwide, overriding any state restrictions, even if the Supreme Court overturned *Roe*. Other presidential candidates followed suit, with several of them—Booker, New York senator Kirsten Gillibrand and Massachusetts senator Elizabeth Warren—calling for expanding access to abortion instead of merely preserving existing access. President Joe Biden also said he supported legislation “making *Roe* the law of the land.” Biden’s vice president, Kamala Harris, as a former California senator and presidential candidate, proposed a plan that said states tending to restrict abortion would have to get advance permission from the Justice Department before enforcing any laws affecting access to the procedure.

Across the aisle, other lawmakers have made opposition to abortion a focus of their careers. Among them is Representative Chris Smith, a New Jersey Republican first elected in 1980. Smith has fought not only Democrats but even his own party at times. He persuaded some Republicans in 2002 to vote “no” on a major bankruptcy bill in protest of a provision preventing abortion protestors from declaring bankruptcy after racking up large civil-disobedience fines. The provision ultimately was removed. Other lawmakers have brought graphic images of an unborn fetus onto the floors of Congress during debates on the issue to make their point; supporters of abortion rights have questioned whether the images are from the United States or are the result of commonly performed U.S. procedures. Such opposition has not been limited to Republicans, though. Pennsylvania Democratic senator Robert Casey also has become known for his anti-abortion stance. But he also angered anti-abortion groups in 2011 by voting against denying federal funds to Planned Parenthood, saying the group offers many important family planning services apart from abortion.

Liberal Shift

The Democratic ranks in the House over the last decade have brought in an increasing number of more-liberal lawmakers dedicated to preserving abortion rights. On their first day of work after regaining the House majority in 2019, they passed a spending bill to reopen the government that called for reversing President Donald Trump’s restrictions on funding for international aid organizations that perform abortions or support abortion rights—the so-called “Mexico City policy.”

The policy was first announced in 1984 by the Reagan administration, taking its name from the site of a conference on population. In thirty-six subsequent years, the policy was rescinded and reinstated by subsequent administrations along party lines. Biden rescinded the policy upon taking office in 2021, marking an end to a four-year period under the Trump administration that saw the greatest expansion of the policy in its history. Congress has the ability to institute the policy through legislation but has only done so once in the past. Lawmakers

applied a modified version of the policy during President Bill Clinton's last year in office as part of a broader arrangement to pay the U.S. debt to the United Nations.

With proposals for a constitutional amendment to overturn *Roe* never gaining traction, anti-abortion lawmakers in Congress have sought to clamp restrictions on federal money to pay for abortions. In 1976, Representative Henry J. Hyde, an Illinois Republican who would later go on to chair the House Judiciary Committee, offered an amendment to the Departments of Labor and Health, Education, and Welfare, Appropriation Act. The so-called "Hyde Amendment" restricted using appropriated funds to pay for abortions through the Medicaid program covering health care for the poor. The provision was quickly challenged in court, and the Supreme Court ruled in 1977 in *Harris v. McRae* that the Hyde Amendment's abortion funding restrictions were constitutional.

The Court also upheld the right of a state participating in Medicaid to fund only those medically necessary abortions for which it received federal reimbursement. In *Williams v. Zbaraz*, a companion case in which similar issues were raised, the court held that an Illinois statutory funding restriction that was comparable to the Hyde Amendment also did not contravene the constitutional restrictions of the 14th Amendment's Equal Protection Clause. Among the Hyde Amendment's longtime supporters was Biden, who ultimately changed his stance during the 2020 presidential race after Harris and other rivals pressured him to do so.

Policy Riders

Over the years, the Hyde Amendment has been reworked to include exceptions for pregnancies that are the result of rape or incest, or abortions that are sought to prevent long-lasting physical health threats to the mother. In 1993, coverage under the Hyde Amendment was expanded to again include cases of rape and incest. And beginning in 1978, Hyde-type abortion limitations were added to Department of Defense spending bills in the form of "riders." In 1983, the Hyde Amendment process was extended to the Department of the Treasury and Postal Service Appropriations Act, barring the use of funds for the Federal Employees Health Benefits Program (FEHBP) to pay for abortions, except when the life of the woman was in danger. Before that restriction, federal government health insurance plans provided coverage for both therapeutic and nontherapeutic abortions.

In recent years, backers of abortion rights have emphasized research that found children of women denied abortions are more likely to live below the federal poverty line and the women are more likely to stay with abusive partners, among other negative repercussions. But Republicans have argued against encouraging abortions. "Most Americans who support the Hyde amendment believe that an abortion is the intentional destruction of innocent human life," said

Representative Tom Cole (R-Okla.) in December 2020. A group of 200 House Republicans said in a January 2021 letter to congressional leaders that they opposed any spending bills that removed or weakened the Hyde provision.

Another rider applying to the District of Columbia was the “Dornan Amendment,” which in 1989 barred D.C. from using both appropriated funds and local funds to pay for abortions. Because Congress controls the district’s budget, the city lacks the ability to decide whether it wants to use its own locally raised Medicaid funds to help pay for abortions. Proponents of making D.C. a state cite the Dornan Amendment as a reason. During budget negotiations with Republicans in 2011, President Barack Obama offered the rider as a bargaining chip in exchange for concessions on other issues relating to women’s health, though the president reportedly said, “I am not happy about it.”

Legislation that would prohibit the performance of an abortion once the fetus reaches a specified gestational age has been introduced in numerous Congresses. The House in 2017 passed the Pain-Capable Unborn Child Protection Act, by a vote of 237–189. Introduced by Representative Trent Franks, an Arizona Republican, the bill would have prohibited the performance or attempted performance of an abortion if the probable postfertilization age of the “unborn child” was twenty weeks or greater. The prohibition would not have applied to abortions necessary to save the life of a pregnant woman whose life is endangered, nor would it have applied when a pregnancy is the result of rape. The Senate rejected consideration of the bill on a 51–46 vote. A year later, the House passed the Born-Alive Abortion Survivors Protection Act by 241–183 vote. Introduced by Tennessee Republican representative Marsha Blackburn, the bill would have required care to be provided to a fetus “born alive” following an abortion or attempted abortion. The Senate never considered the bill.

The 2010 enactment of the Patient Protection and Affordable Care Act, also known as “Obamacare,” featured a last-minute battle over abortion in the House that almost derailed the bill. The law included provisions that address the coverage of abortion services by qualified health plans that are available through health benefit exchanges set up under the law. The ACA also provided for preserving certain state and federal abortion-related laws. It banned health-exchange plans from discriminating against any individual health care provider or health care facility because of its unwillingness to provide, pay for, provide coverage of, or refer for abortions.

Supreme Court Battles

Roe has become a pivotal issue in the Senate Judiciary Committee’s confirmations of Supreme Court justices. Some of the justices nominated by Republican presidents, such as John Roberts in 2005 and Brett Kavanaugh in 2018, have described

the issue as “settled law.” But that stance has done little to appease abortion-rights advocates, who have tried to make the issue a central focus of all Republican-nominated justices’ confirmations.

After Trump tapped Notre Dame law professor Amy Coney Barrett—who was known for her adamant opposition to abortion—in 2020, Democrats charged that Barrett’s nomination represented nothing less than an attempt to derail *Roe*. “Don’t pretend that you don’t know how she will come down on this issue,” Senator Tammy Baldwin, a Wisconsin Democrat, said to her colleagues on the Senate floor. “You should at least have the courage of your convictions and say to the people who are voting right now in this election that you support Amy Coney Barrett’s nomination because you know she will overturn *Roe v. Wade*, too.” But Alaska Republican senator Lisa Murkowski, an abortion-rights supporter, said she was confident that Barrett would not make such a move. Murkowski said she talked with Barrett about “what that means to overturn, potentially overturn something, that generations of women are relying on.”

After Biden took office in 2021, the House passed – on a largely party-line vote – in September a bill that would create a statutory right for health-care providers to provide abortion services. But the bill stalled in the Senate, coming up well short of the 60 votes needed to clear procedural hurdles. Then, in May 2022, *Politico* made the unprecedented move of acquiring and publishing a draft Supreme Court opinion in which the court’s five conservatives called for *Roe* to be overturned. The news set off a firestorm in Congress, with Democrats contending it warranted codifying abortion rights into law. But most Republicans, led by Senate Minority Leader Mitch McConnell (R-Ky.), expressed more outrage over the fact that the document was leaked.

ADJOURNMENT

Adjournment is the action of Congress in bringing its meetings to a close. In the congressional context, the word has several different meanings.

The terms of Congress run in two-year cycles, and Congress must hold a regular series of meetings, called a session, each year.

At the end of a year’s session, the Senate and House adjourn *sine die* (a Latin phrase meaning “without a day”). This means that the lawmakers do not intend to meet again in that particular session. Adjournment of the second session is generally the final action of a term of Congress. The president has authority under the Constitution to convene special sessions of Congress. Members frequently authorize their leaders to call them back into session as well. Unless called back,

Congress will meet next on the constitutionally fixed date for a new session, January 3 of the next year. The Constitution gives the president power to adjourn Congress when the houses cannot agree about the time of adjournment, but this has never happened.

Within a session, Congress may adjourn for holiday observances, vacations, or other brief periods. This practice is known as adjournment to a day certain. Lawmakers set a date for the session to reconvene. By constitutional directive, neither chamber may adjourn for more than three days without the consent of the other.

In the House of Representatives, daily sessions almost always end in daily adjournment. The Senate may also adjourn, but it is far more likely to recess. By recessing, it continues the same legislative day into the next calendar day, an arrangement that offers certain procedural benefits under Senate rules. A single legislative day may go on for weeks and does not end until the Senate next adjourns.

See *also* Legislative Day; Morning Hour; *Sine Die*; Terms and Sessions of Congress

AGRICULTURE POLICY

Agriculture has long been a major concern in Congress. Both chambers set policy for a massive, multiyear authorization known as the “farm bill,” which establishes the overall shape of farm programs for the following five or six years. Its committees devoted to the subject look into a wide range of areas: energy, conservation, forestry, biotechnology, and nutrition. Congress also funds agriculture programs through designated subcommittees of the Appropriations Committee in both chambers.

The most important element of the agriculture committees’ jurisdiction has historically been farm price supports. Through a variety of mechanisms, such as government loans and direct cash payments, these federal programs have determined the minimum prices farmers would receive for their wheat, corn, cotton, and other crops. The goal of these programs, which had their origins in the farmland devastation of the Great Depression in the 1930s, was to provide farmers with some protection against wide swings in market prices for farm products. In addition, the committees are responsible for other agricultural issues, such as the federal law regulating use of pesticides. Also under the committee’s authority is the federal food assistance program, which helps poor people buy food.

In recent years, the old verities have come under attack from new forces and interest groups that in the past did not exist or had little political clout. The old

farm coalition, dominated by a handful of major commodity trade groups and the primary umbrella groups, the American Farm Bureau Federation and the National Farmers Union, was facing not only international developments in a globalized world but also newly active domestic groups arguing that nutrition, health, environment, and even transportation should be part of farm policy decisions.

Some of these groups bringing their views to the committees were not new players at all. The American Farmland Trust, a twenty-six-year-old organization seeking to preserve farm and grazing lands and rural communities, was in alliance with the National Association of State Departments of Agriculture and other groups to promote public health issues including nutrition programs. The American Cancer Society and the American Heart Association backed the push to make nutrition part of farm policy. Oxfam America, an antihunger organization, argued for restructuring farm subsidies that it said encouraged overproduction of U.S. crops, which it contended were “dumped” overseas in ways that impeded growth of new agricultural markets and depressed world prices. Environmental groups such as the Nature Conservancy and hunting and fishing groups such as Ducks Unlimited were arguing for wider inclusion of farmland in federal conservation programs. The burgeoning “local foods” movement sought support to improve access to local foods and support local producers. Even the trucking industry was pushing for a trust fund for rural road maintenance and tax credits for other transportation expenses related to agriculture. And producers of hemp have sought to expand the growth of the marijuana plant without the chemical providing the “high” of marijuana for food, clothing, and other uses.

This was an entire new world for the traditional “iron triangle” of major commodity groups. As one farm lobbyist, Brent Gattis, a longtime Agriculture Committee staffer, told a reporter: “Historically, we have not had to fight activist groups from their ivory towers about defining what they think rural life should be about.”

In addition to new groups demanding a place at the farm policy table, U.S. agriculture has been increasingly buffeted by international trade law pressures. Other nations, many of them important U.S. trade partners, were charging that American law violated World Trade Organization (WTO) rules by allowing the federal government to spend too much on farm subsidies. The WTO already ruled, in 2005, that the U.S. cotton program violated global trade rules. Developing countries, in particular, claimed American farm and trade and tariff policies were hurting their ability to sell in the United States.

Traditionally, members of the agriculture committees come from states in the South and Midwest, where farm issues are a prime concern. Some of the members were farmers themselves or came from districts where farming was an important part of the local economy. Few members came from big cities or industrial regions.

“Farm Coalition”

Politically and traditionally, the most important aspect of the Agriculture Committee’s work has been the “farm coalition” of the five major commodity producers: corn, wheat, cotton, rice, and soybeans, plus dairy producers. This coalition was essential because no single crop is important everywhere in the United States. In the Midwest, wheat and corn crops dominate, and farmers there are most concerned with preserving federal assistance to those products. In the South, farmers mostly grow cotton and rice, and they care much more about price supports for these crops than about assistance for wheat or corn.

By sticking loyally to the farm coalition, Agriculture Committee members were able for many years to win House approval of legislation providing increased federal support for their crops. If opposition developed to price supports for any one crop, committee members usually were able to overcome it by offering to increase federal aid to other crops as well. In this way, they won over enough members to obtain a majority. Generous funding for the federal food assistance program, which was a pilot program in 1961 and expanded nationwide in 1974, brought liberal, urban Democrats into the coalition supporting farm legislation.

But by the 1970s and 1980s, various factors began to undermine the strength of the farm coalition in the House. One was the declining political importance of farmers as fewer districts remained rural, the suburbs grew rapidly, and many cities saw a new in-migration of young professionals. The continuing decrease in the number of people living in rural areas meant that fewer House members were primarily concerned with farm interests. Moreover, the spiraling cost of federal farm programs increased opposition to the farm coalition and to Agriculture Committee legislation, as the government continued to run large budget deficits.

Both panels are dominated by members from states where agriculture is a key factor in the local economy. That has greatly reduced the partisanship afflicting other panels. For example, in recent years, the chair or ranking member of the House panel for several terms has been Collin Peterson, a Minnesota Democrat who was among his party’s most conservative members. But the panel took a different direction in 2021 with the ascendance to the chairship of David Scott, a Georgia Democrat who became the first African American to hold the gavel and who made his differing priorities clear from the outset. “There is a new sheriff in town,” Scott said in December 2020. “We are going to be at the point of the spear for our Black farmers.”

Senate committee members also share with their House colleagues the primary goal of protecting the interests of farmers in the competition for federal resources.

Furthermore, the Senate committee, like the House committee, traditionally has depended on the farm coalition, in which advocates of various crops band together for mutual political support. From 2015 to 2021, the Senate panel chair was Pat Roberts, a Kansas Republican who was the first person to lead both the House and Senate panels. (He chaired the former from 1995 to 1997.) He developed a close relationship with Michigan's Debbie Stabenow, the panel's top Democrat. "Friendship and comity is the norm for the Ag Committee," Roberts observed in 2020. Stabenow took the gavel in 2021, and the committee's ranks became more diverse with the addition of new Democratic senators Ben Ray Lujan of New Mexico, a Latino, and Raphael Warnock of Georgia, an African American.

Within the last two decades, the Senate committee—like its counterpart—faced the same set of new challenges from international globalization, including pressure from the WTO to change farm subsidies, and the arrival on the farm policy scene

CLOSER LOOK

New Players at the Table

Historically, formation of farm policy has been the province of the American Farm Bureau Federation and the National Farmers Union in league with trade groups representing growers of corn, wheat, cotton, soybeans, and rice. They have increasingly been challenged by new groups:

- **Specialty Crop Farm Bill Alliance.** Representing fruit, nut, vegetable, and wine producers; seeks multibillion-dollar program of conservation and grants for marketing and research.
- **American Farmland Trust.** With similar groups, seeks funds for conservation, particularly to pay farmers to retire farmland from production.
- **Renewable Fuels Association.** Alternative energy advocates seek research grants and government procurement mandates.
- **Oxfam America.** Antihunger organization wants farm subsidy changes that critics say cause overproduction of U.S. crops that are then sent abroad, harming new agricultural markets in developing countries and depressing world prices.
- **Vaccine makers.** Drug companies urge the government to stockpile avian flu vaccines and diagnostic tools to test livestock for animal diseases.
- **U.S. Hemp Roundtable.** Alliance of farmers and others seeks greater use of products using hemp, including CBD, a popular extract of the cannabis plant.

of a raft of new players seeking to make nutrition, health, conservation, environment, and other issues part of the debate.

It was a stunning change for the traditional farm lobby coalition of the American Farm Bureau Federation and the National Farmers Union plus the producers of the major U.S. commodities: corn, wheat, cotton, rice, and soybeans, plus dairy products. Key players in the traditional coalition were fully aware that past ways of doing farm business were threatened by competition from nontraditional groups. By 2020, the Farm Bureau Federation joined a coalition of food, forest, farming, and environment groups it had often opposed that sought to work with Congress and the Biden administration to reduce agriculture's role in accelerating climate change and reward farmers lowering greenhouse gas emissions. "We're proud to have broken through historical barriers to achieve a unique alliance," Farm Bureau president Zippy Duvall said.

However, the farm coalition on the Senate Agriculture Committee has tended to be more powerful politically than its House counterpart because of the differences in representation in the two chambers. In the 435-member House, sparsely populated farm states, such as North Dakota, have very little voting strength. But the same states each have two votes in the 100-member Senate, giving them far more power and making farm issues considerably more important.

Bigger Concerns

The issues of sustainable agriculture and food justice—a movement emerging from communities in response to food insecurity and economic pressures that prevent access to healthy, nutritious, and culturally appropriate foods—have emerged as bigger concerns over the last few decades. The Obama administration kept those issues on the table during the 2010–2016 period in which Republicans controlled Congress, but they subsided when President Donald Trump assumed office.

Even so, Republicans said the issues remained important and held hearings on the issues. The novel coronavirus in 2020 brought the issue to the fore. "Perhaps for the first time since the Great Depression, the significance of food security has resonated throughout the entire agriculture and food value chain, impacting nearly every kitchen table around the country and the world," Roberts noted in a December 2020 hearing.

The Agriculture appropriations bill funds the Department of Agriculture, with the exception of the U.S. Forest Service. It also funds the Food and Drug Administration and—in even-numbered fiscal years—the Commodity Futures Trading Commission (CFTC), which regulates the derivatives markets. Nonmandatory

spending on agriculture appropriations reached a 10-year low in fiscal year 2013, but between then and fiscal 2021, according to the Congressional Research Service, they gradually rose by double digits as the spending committees turned down Trump's repeated requests for funding cuts and invested more money in disaster aid as well as other programs.

See also Climate Change Policy; House Committees; Senate Committees

AMENDMENTS

Amendments are proposals to alter or rewrite legislation being considered by Congress. The amending process provides a way to shape bills into a form acceptable to a majority in both the Senate and House of Representatives.

The process of amending legislation has three aspects. First, it is one of the chief functions of the legislative committees of Congress. Second, it is at the heart of floor debate in both chambers. Third, it is vital to working out compromises on bills during House–Senate conference negotiations.

Amendments have many objectives. Members may introduce amendments to dramatize their stands on issues, even if there is little chance that their proposals will be adopted. Some amendments are introduced at the request of the executive branch, a member's constituents, or special interests. Some become tools for gauging sentiment for or against a bill. Some may be used as "sweeteners" to broaden support for the underlying measure. Others are used to stall action on or to defeat legislation. In the House, where debate is strictly limited, amendments may be used to buy time; a member may offer a pro forma amendment, later withdrawn, solely to gain a few additional minutes to speak on an issue.

Amendments themselves are frequently the targets of other amendments offered by members having different points of view. The amending process becomes the arena for a struggle among these diverse viewpoints. At times, amendments become the most controversial elements in a bill.

Some amendments take on an identity of their own, regardless of the legislation to which they are attached. The Hyde amendment, a proposal to ban federal funding for abortions, is a classic example. Its sponsor, Representative Henry J. Hyde, an Illinois Republican, touched off an emotional battle when he first offered his amendment in the 1970s. The amendment became widely known, and variations of it were still being attached to legislation decades later.

CLOSER LOOK

There are several types of amendments:

- **Basic.** A formal proposal to alter the text of a bill, resolution, amendment, motion, or some other text. It may strike out (eliminate) part of a text, insert new text, or strike out and insert—that is, replace all or part of the text with new text.
- **In the nature of a substitute.** Usually, an amendment to replace the entire text of a measure.
- **Amendment tree.** A diagram showing the number and types of amendments that the rules and practices of either house permit to be offered to a measure before any of the amendment is voted on.
- **Amendments between the houses.** The basic method for reconciling House and Senate differences on a measure, by passing it back and forth between the two chambers until both have agreed to identical language.
- **Amendments in disagreement.** Amendments in dispute between the houses. A conference committee is required to deal only with these amendments, and its conference report may contain recommendations concerning only those amendments on which it has reached agreement.
- **Amendments in technical disagreement.** Amendments on which conferees have agreed but are not included in the conference because they violate the rules of one or both houses and therefore are subject to a point of order. Each house considers the conference report recommendations on these technical disagreements one at a time. After 1995, when Republicans took control of the House, this problem was more often avoided by issuing special rules that blocked points of order.

In Committee

Legislation comes under its sharpest congressional scrutiny at the committee stage. Typically, a bill first undergoes section-by-section review and amendment by a specialized subcommittee, a process known as “marking up” the measure. Occasionally the subcommittee may approve the legislation unaltered, but it is more likely to amend the bill or even to substitute an entirely new version. The legislation then goes to the full committee, where the process may be repeated. The committee may accept the subcommittee amendments with little or no change, or it may make additional amendments.

If the changes are substantial and the legislation is complicated, the committee may introduce a “clean bill” incorporating the proposed amendments. The original bill is then put aside and the clean bill, with a new bill number, is reported to the full chamber. If committee amendments are not extensive, the original bill is “reported with amendments.” Later, when the bill comes up on the floor, the House or Senate must approve, alter, or reject the committee amendments before the bill itself can be put to a vote.

On the Floor

During floor action, members may seek to change the intent, conditions, or requirements of a bill; modify, delete, or introduce provisions; or replace a section or the entire text of a bill with a different version. A member may offer an amendment that is entirely unrelated to the bill under consideration. Such an amendment, called a rider, is much more common in the Senate than in the House.

All these attempts to alter legislative proposals involve one of three basic types of amendments: those that seek to add text, those that seek to substitute alternative language for some or all of the existing text, and those that seek to delete some or all of the existing text.

Amendments that seek to revise or modify parts of bills or other amendments are called perfecting amendments. Substitute amendments aim to replace previously introduced, or pending, amendments with alternatives. A variation of the substitute, referred to as an “amendment in the nature of a substitute,” seeks to replace the pending bill with an entirely new version.

Although the rules are interpreted somewhat differently in the House and Senate, both chambers prohibit the offering of amendments past the “second degree.” An amendment offered to the text of a bill is a first-degree amendment. An amendment to that amendment is a second-degree amendment and is also in order. But an amendment to an amendment to an amendment—a third-degree amendment—is not permissible. The rule, simply laid out in *Jefferson’s Manual* in the late 1700s, is more complex than it sounds because the two chambers differ in how they interpret first- and second-degree amendments. While there are usually only four amendments pending at the same time in the House, there can be more in the Senate.

Generally speaking, bills in the House are considered section by section, with floor amendments in order only to the section of the bill then being considered. In the Senate, amendments usually are in order to any section at any time, unless such practices are prohibited by unanimous consent. It is a basic concept of the amending process that once an amendment has been rejected, it may not be offered again

in precisely the same form (although sometimes another vote can be forced on the same amendment).

Committee amendments—those made by the committee that reported the bill—normally are considered before amendments introduced from the floor. However, committee amendments themselves are subject to floor amendments. Both chambers vote on second-degree amendments before voting on first-degree amendments, although the precise order varies from House to Senate because of their differing interpretations of the rules.

In Conference

Legislation cannot go to the president for signature until both chambers of Congress approve it in identical form. Differences between House and Senate versions of a bill—called “amendments in disagreement”—can be resolved in one of three ways: one chamber may simply accept the other chamber’s amendments; amendments may move back and forth between the two chambers until both agree; or a conference committee may be convened.

When a bill goes to conference, the compromises that are reached are incorporated in a conference report, on which each chamber votes as a whole. But sometimes House and Senate conferees are unable to reach agreement on every difference in a bill sent to conference. Amendments still in disagreement must be resolved separately in each chamber once the conference report itself has been adopted. The bill will fail unless the two chambers reach compromises on all amendments in disagreement or agree to drop them altogether.

Conferees generally are able to reach agreement, and Congress approves the bill. On occasion there are irreconcilable disagreements over content, but the more typical disagreement is a technical one. This occurs when conferees reach agreement on their differences but the rules of one chamber—usually the House—prohibit its conferees from accepting certain provisions added by the other chamber. This frequently occurs when the Senate adds unrelated, or nongermane, amendments to legislation passed by the House; when legislative provisions are added to appropriations bills; or when entirely new provisions are added by conferees. Such amendments are reported in “technical disagreement.” In the past, these amendments would not be included in the body of the conference report and the House would vote on them separately. But after the Republicans took control of Congress in 1995, the House leadership worked to avoid the problem altogether by having the Rules Committee issue rules that waived points of order, or challenges, raised against such amendments, which were now included in the report itself. In 2007, Senate rules were changed to allow members to raise points of order on provisions

added during a conference committee but not previously approved by either chamber. Such items could be struck individually on points of order that, if successful, would require sending the bill back to the House for approval of the changes. In another rules change adopted in 2013, senators changed the amendment procedure to reduce the number of filibusters. Under the change, the Senate majority leader would allow two amendments from both parties to be presented on controversial legislation, with the caveat that if an amendment is not relevant to the legislation at hand, it would be subject to a sixty-vote threshold.

See also Bill; Filibuster; Legislative Process; Markup; Rider; Voting in Congress

APPEAL

In both the Senate and House of Representatives, a member may challenge a parliamentary ruling of the presiding officer if he or she believes it violates the chamber's rules. Such a challenge is known as an appeal.

A senator appeals to fellow senators to overturn the presiding officer's decision, which can be done by majority vote. In the House, the ruling of the Speaker traditionally has been final, and members are seldom asked to reverse the Speaker's stand. To appeal a ruling is considered an attack on the Speaker. The Senate is more likely to overturn the rulings of its chair, often on political grounds that have little to do with the parliamentary situation.

APPOINTMENT POWER

The Constitution gives the Senate the right to confirm or reject presidential appointments to many government positions. It states,

The President . . . shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law; but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments. Senators sometimes use this "advice and consent" power to press

for their political beliefs and to assert Congress's independence from the executive branch.

Like the authority to approve or reject treaties, the right to review presidents' choices for jobs within the government is given only to the Senate. The House does not vote on presidential nominations, and representatives rarely have much influence in decisions about which people the president will appoint.

Senators participate in the selection of Supreme Court justices, cabinet officers, ambassadors, and other high-level government officials. Only the president has the formal right to select someone to fill one of those positions, but the Senate has used its power to reject presidential appointments and pressure the president into selecting people more to its liking. In some cases, such as certain federal judge-ships, senators traditionally have dictated the selection of nominees.

In the vast majority of cases, however, the Senate's power over appointments is little more than a bureaucratic chore. The Senate typically receives tens of thousands of nominations a year, most of which are routine military and civilian appointments and promotions. Routine appointments include those to the Foreign Service and Public Health Service. In the 116th Congress (2019–2020), the Senate received 42,616 nominations, of which 41,859 were confirmed.

The president's nominations for high-level positions historically have been approved by the Senate with little debate or objection. But during President Barack Obama's administration, the increasing partisan tone in Washington was apparent in the confirmation process. During the last two years of President George W. Bush's administration, in which Democrats controlled the Senate, senators confirmed 740 of 981 nominees to cabinet and subcabinet positions, a rate of 75 percent, according to Senate statistics. However, in the final two years of Obama's first term, 285 of 503 civilian nominees were confirmed, a rate of just 57 percent.

A Republican-controlled Senate created fewer flare-ups during President Donald Trump's administration. Whenever a nominee ran into opposition, Trump's White House typically withdrew nominations instead of having the nominee face a difficult vote. In the last two years of Trump's presidency, the Senate confirmed 2,029 nominees for nonmilitary positions; nineteen were withdrawn. None was rejected on a floor vote.

Trump also took frequent advantage of the Federal Vacancies Reform Act of 1998, which gives presidents latitude in filling positions without having them go through the Senate confirmation process. He installed "acting" heads of the departments of Homeland Security, Defense, Veterans Affairs, Small Business Administration, and other agencies. "I like 'acting.' It gives me more flexibility," Trump said in 2019. The situation, however, drew widespread criticism from

Democrats who said it showed the president's contempt for Congress's checks-and-balances role. The situation made even some of Trump's allies uneasy. "I don't know what his rationale is, but it's bound to create more challenges . . . I think we need some more certainty, more predictability would be good," Texas Republican senator John Cornyn told The Associated Press.

Most senators believe that the president has a right to pick his cabinet officers, unless one of his choices has committed some illegal or unethical action or holds beliefs that are repugnant to most Americans. Since Congress first convened, the Senate has rejected only nine nominees for cabinet positions. Sixteen cabinet nominations have been withdrawn, including those of Chad Wolf for Homeland Security, Andrew Puzder for Labor, and Ronny Jackson for Veterans Affairs under Trump.

A similar argument often is made about Supreme Court nominations: that the president, who was endorsed by the people in the last election, has the right to name a justice who agrees with the president's legal philosophy. That argument has less force, however, because Supreme Court justices serve for life rather than just for the term of the incumbent president. Twenty-nine Supreme Court nominations (including one person who was nominated twice) have been rejected or dropped as a result of Senate opposition. A similar argument developed about lower courts, especially the circuit courts of appeal, in the latter decades of the twentieth century and into the twenty-first as liberal and conservative interest groups fought tenaciously over the philosophical orientation of the entire federal judiciary.

The effect of the Senate's power is seen most clearly in the small number of cases in which a nominee for a court seat or an executive branch position encounters real opposition. Such opposition may crystallize during committee hearings on a nomination. In many instances, presidents or the nominees themselves withdraw an appointment when it becomes clear that many senators are prepared to vote against it. Less often, presidents continue to press an appointment in the face of possible defeat on the Senate floor. An outright rejection of an important nomination usually represents a major political setback for a president.

Usually, the opposition will come from the political party that does not hold the White House, but on rare occasions, internal rifts in the president's party have the same effect. In 2019, Trump considered nominating business executive Herman Cain to the Federal Reserve's board of governors. But when Cain's name arose, so did the revival of sexual harassment allegations that ended his 2012 Republican presidential bid. Four Republican senators said publicly they would not vote to confirm him. Cain denied the allegations but withdrew his name from consideration, citing the cut in pay he would have faced.

More typically, the Senate rejects presidential appointments for several reasons. Partisan political considerations play a role, as do concerns about the personal conduct and ethics of a nominee. Interest groups and the press also influence the confirmation process. Even though the Republican Senate enabled Trump to confirm numerous judicial nominees, including three to the Supreme Court, some were anything but smooth. Appeals court judge Brett Kavanaugh was confirmed to the high court in 2018 despite a woman contending that Kavanaugh had sexually assaulted her when they were in high school. Kavanaugh was confirmed on a narrow 50–48 vote.

History

Senatorial confirmation of executive appointments is a distinctly American practice. It was included in the Constitution as the result of a compromise. Some delegates to the Constitutional Convention favored giving the Senate the exclusive right to select people to fill important nonelected offices. Others argued that the president should have complete control of appointments. The compromise gave the president the power to choose nominees, subject to the approval of the Senate. The president “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint” officials, the Constitution states.

The framers disagreed on the consequences of the compromise. Alexander Hamilton thought it was not especially important, because the Senate would have no power to select officeholders independent of the president. But John Adams thought that the Senate’s power would inevitably be used for partisan political purposes. Adams was quickly proved correct, during his term as president from 1797 to 1801. By 1800 it was clear that Senate approval of nominations would depend on political considerations.

Virtually every president since then has faced difficult confirmation battles with the Senate. Presidents with solid political support in the Senate generally fared better than those who had to contend with a hostile Senate. But even strong chief executives sometimes were subjected to embarrassing defeats of their nominees.

In many cases the confirmation battles of the past seem trivial, even if their political consequences were significant. In the 1880s, for example, Senate Republican leader Roscoe Conkling resigned from the Senate as a result of a dispute with President James A. Garfield over appointments for the port of New York. Other confirmation battles have been events of lasting importance to the nation. The long and bitter fight that led to the confirmation of Louis D. Brandeis as a Supreme Court justice in 1916 marked a crucial turning point in the direction of legal philosophy in the twentieth century.

The details of most confirmation disputes have faded with time, but two long-term trends stand out. One is the rise and decline of the president’s control over

relatively minor but well-paying government positions. The other is the development of senators' power to control nominations that concern their states.

Spoils System

By 1820, the so-called spoils system was solidly established in the awarding of government jobs. The term comes from the expression “to the victor belong the spoils.” This tradition held that the party that had won the last presidential election had a right to put its people in government offices, regardless of whether the previous officeholders were doing a good job. That rule still holds for top-level government offices, such as members of the cabinet and their ranking subordinates. But in the nation's early days the principle of party control of government jobs extended to lesser positions. Jobs such as postmaster and collector of import duties at a port were eagerly sought after, and victorious political candidates rewarded their supporters with them.

The Senate soon moved to take over its share of the patronage bonanza. In 1820, it enacted a law limiting the terms of federal officials to four years. That ensured constant turnover, allowing senators to give many more jobs to friends

Table Senate Rejections of Cabinet Nominations

<i>Nominee</i>	<i>President</i>	<i>Department</i>	<i>Date</i>	<i>Senate Vote</i>
Roger B. Taney	A. Jackson	Treasury	June 24, 1834	18–28
Caleb Cushing	J. Tyler	Treasury	March 3, 1843	19–27
Caleb Cushing	J. Tyler	Treasury	March 3, 1843	10–27
Caleb Cushing	J. Tyler	Treasury	March 3, 1843	2–29
David Henshaw	J. Tyler	Navy	January 15, 1844	8–34
James M. Porter	J. Tyler	War	January 30, 1844	3–38
James S. Green	J. Tyler	Treasury	June 15, 1844	Not recorded
Henry Stanbery	A. Johnson	Justice	June 2, 1868	11–29
Charles B. Warren	C. Coolidge	Justice	March 10, 1925	39–41
Lewis L. Strauss	D. Eisenhower	Commerce	June 18, 1959	46–49
John Tower	G. H. W. Bush	Defense	March 9, 1989	47–53

Source: “Cabinet Nominations Rejected, Withdrawn or No Action Taken,” U.S. Senate, <https://www.senate.gov/legislative/NominationsRejectedorWithdrawn.htm>.

and relatives. The period from 1837 to 1877 marked the high point of Senate efforts to control executive appointments. During this period, the spoils system reached its peak, and all presidents were subject to intense pressure for patronage appointments.

The excesses of the spoils system eventually became so serious that Congress reacted against political patronage. President Rutherford B. Hayes began to fight against the system in 1877, and in 1883, Congress established a civil service system to award most government jobs on the basis of merit.

Senatorial Courtesy

A key element of the Senate's confirmation power was the notion of senatorial courtesy. This custom, initiated in the 1780s, provided that the Senate would refuse to confirm a nomination within a particular state unless the nominee had been approved by the senators from that state who belonged to the president's party. In practice, this meant that senators usually could select many officeholders directly—a power that enhanced their political strength at home. When neither of the senators from a state was of the president's party, the right of senatorial courtesy often was given to House party members or to local party officials. The tradition of senatorial courtesy declined in importance as patronage declined and more government jobs moved into the civil service system. But senators still exert a strong influence over certain federal judgeships and other offices within their states.

Senators sometimes use their confirmation power as a political bargaining chip by placing a “hold”—or temporarily delaying action—on a nomination. When Republicans controlled the Senate for periods during the 1980s and 1990s, Jesse Helms of North Carolina repeatedly held up nominations because he found them politically unacceptable or because he wished to force political opponents to compromise on policy issues. A different example of the use of holds to pressure an administration on issues of interest to Congress came in 2007 when Senator Ron Wyden (D-Ore.), said he would block a high-level Bush administration nomination to the Department of Homeland Security because the department had failed to implement an emergency response program that Wyden had proposed almost six years earlier and that Wyden claimed the department had promised to set up. The hold was placed on a person nominated to run an immigration enforcement agency that had little to do with Wyden's program.

Politics, Ethics, and Credentials

In the latter decades of the twentieth century, confirmation debates shifted from the issue of patronage to questions about the political beliefs and ethics of

nominees. Far more than in earlier years, nominees became subject to searching inquiries—by the press and interest groups as well as the Senate.

The inquiries could focus, for example, on a nominee's views on such controversial issues as abortion or affirmative action programs to help boost the position of women and minorities. Sometimes questions were raised about financial dealings that might be illegal or pose a conflict of interest for the potential officeholder. For some confirmations, questions were raised about aspects of personal conduct never before discussed so openly. Nominees to high posts faced allegations ranging from marijuana use and alcohol abuse to sexual harassment.

In one high-profile instance—Obama's nomination of appeals court judge Merrick Garland to the Supreme Court in 2016—politics, and not personal qualifications, was the obstacle to confirmation. Senate Majority Leader Mitch McConnell (R-Ky.) and other Republicans said Garland's credentials were impeccable, but they said the next elected president should fill the vacancy and refused to hold a hearing or vote on his nomination. After Trump took office, he appointed Neil Gorsuch to fill the vacancy. President Joe Biden nominated Garland in 2021 to be his attorney general.

Political Views

Confirmation debates that centered on political opinions often involved appointments to independent boards, commissions, and agencies, such as the Federal Communications Commission and the Environmental Protection Agency. Most of these agencies were created by acts of Congress and were not subordinate to any executive department. Thus, members of Congress tended to see these agencies as arms of Congress and expected to play a larger role in appointments to them.

Arguments over political views also cropped up in relation to appointments to major cabinet offices and the federal judiciary, especially the Supreme Court. Between 1933 and 1945, several of President Franklin D. Roosevelt's cabinet nominees faced vocal opposition because of their allegedly radical views, although all were confirmed. Roosevelt also won confirmation of Hugo L. Black as a Supreme Court justice in 1937, despite charges linking Black, an Alabama senator, to the Ku Klux Klan.

Robert H. Bork, who was nominated to the Supreme Court in 1987 by President Ronald Reagan, lost his confirmation battle at least in part because a majority of senators believed that his judicial views on subjects such as civil rights and privacy were so conservative as to be outside the mainstream of American legal philosophy.

The tables were turned in 1993, when President Bill Clinton's nomination of Lani Guinier to head the Justice Department's civil rights division came under

CLOSER LOOK

One particularly virulent debate over a Supreme Court nomination brought a new word into the common political lexicon: *Borked*. The term, generally attributed to conservative commentators, derived from Robert H. Bork, who President Ronald Reagan nominated to fill a Supreme Court seat in 1987. Bork, a legal scholar widely admired for intellectual strengths, was strongly opposed by civil and women's right groups for his conservative views and refusal to concede a constitutional right to privacy, the keystone of abortion rights. A vigorous attack by these and other groups, virtually unprecedented in modern times, convinced the Senate that his views were so conservative as to be outside the mainstream of American legal philosophy. He was rejected by the Senate 42–58, the last time as of early 2013 that the Senate voted against a Court nomination.

Thereafter, conservatives often applied the term *Borked* to liberal attacks on conservative judicial nominees and often on executive branch officials, including over Brett Kavanaugh's nomination in 2018 amid allegations of earlier sexual misconduct that Kavanaugh denied. But even liberal groups were known to use the term, or its verb form "to bork," to indicate a vigorous opposition to a nominee.

attack from conservatives, who accused her of holding dangerously radical views on minority rights. Clinton ultimately withdrew the nomination. Some observers saw the Guinier fight as payback for Bork's defeat.

In 1997, National Security adviser Anthony Lake withdrew as Clinton's nominee for director of the Central Intelligence Agency (CIA), complaining of what he and his supporters saw as "endless" delays and the politicizing of the confirmation process. Opponents had raised questions about Lake's stewardship of the National Security Council and the potential for political interference at the CIA.

In 2001, President Bush's first nominee to be labor secretary, Linda Chavez, drew fire from labor and civil rights groups for her opposition to the minimum wage and affirmative action. Before her nomination could be acted on, Chavez withdrew following reports she had given shelter in the early 1990s to an illegal immigrant from Guatemala who did household chores for her and received spending money in return.

Obama ran into trouble early in his first term with several of his Cabinet nominees. Former New Mexico governor Bill Richardson was nominated for secretary of Commerce but withdrew in 2009 because of a federal investigation into whether he exchanged government contracts for campaign contributions. The president's subsequent choice for that job, former New Hampshire Republican

senator Judd Gregg, withdrew because of what he called “irresolvable conflicts” with Obama. But the biggest surprise was former Senate majority leader Tom Daschle, who had been selected to head the Department of Health and Human Services. He withdrew in 2009 amid controversy over his tax records and questions over whether he had done lobbying work.

President Trump’s nomination of Puzder, a fast-food franchise executive, for Labor secretary encountered immediate opposition over his admission that he did not pay taxes on the services of an undocumented immigrant who worked for him for years. Further controversies arose, including a video showing Puzder’s ex-wife accusing him of abuse.

Ronnie Jackson was nominated for Veterans Affairs after serving as the president’s personal physician. He withdrew amid allegations that he had fostered a hostile work environment and behaved improperly while serving as the doctor in charge of the White House medical unit. Some senators also questioned his lack of experience. But such questions did not prevent Jackson from being elected to the House in 2020 to represent Texas’s 13th Congressional District.

Chad Wolf’s nomination at Homeland Security was withdrawn a day after he had urged the president to strongly condemn the January 2021 riots over the Electoral College’s certification of Biden as the new president. The White House denied that the withdrawal was related to his comments, and he continued to serve as the department’s acting head until Trump’s term ended two weeks later.

The authority to pick candidates for federal district courts and courts of appeal is one of the most enduring powers presidents enjoy, allowing them to influence the law long after their tenure in the White House is over. The highly politicized and acrimonious battles over judicial nominees in the Clinton, Bush, Obama, and Trump administrations provided dramatic proof of just how potent that power was.

Personal Ethics

As the standards for government service in high positions evolved in the decades after World War II, the issue of conflict of interest became a frequent topic of concern. By the end of the twentieth century, nominees were expected to avoid all situations in which their official decisions could benefit their personal interests or in which they received money from people who stood to benefit from their actions. Financial dealings that appeared shady often caused serious trouble for a nominee. One well-known example is the case of Abe Fortas, the Supreme Court justice nominated to the post of chief justice by President Lyndon B. Johnson in

1968. Critics blocked the nomination, partly on the grounds that Fortas had accepted money from past business associates, creating a conflict of interest or at least the appearance of conflict.

But some neutral observers not involved in any particular nomination fight often noted that many prominent and successful men and women who, with their backgrounds, would be legitimate candidates to serve the nation were also likely to have complex and extensive financial interests that opponents could use to block the confirmation or make the task so arduous that the individuals would decline even being nominated.

Nevertheless, personal conduct and history plagued more than a few presidential nominations over the years. President Richard Nixon's appointment of Clement F. Haynsworth, Jr. to the Supreme Court was defeated because of charges that Haynsworth had failed to show sensitivity to ethical questions and the appearance of a conflict of interest—even though critics conceded that he was not personally dishonest. And President Reagan's nominee for attorney general, Edwin Meese III, endured a thirteen-month delay before he was confirmed because of concern over the legality and propriety of his financial dealings.

A nominee's personal behavior also comes under scrutiny. In 1987, Douglas Ginsburg was selected by Reagan for a seat on the Supreme Court, but his name was withdrawn before the nomination was officially submitted to the Senate after the press reported that he had smoked marijuana some years before.

Personal ethics and conduct were at issue again in 1989 when the Senate rejected President George H. W. Bush's nomination of former Republican senator John Tower of Texas as secretary of defense—the first rejection of a cabinet nominee since 1959 and only the ninth cabinet-level nominee ever turned down. Although knowledgeable about defense issues from years in Congress, Democratic opponents of the nomination questioned Tower's fitness for office, citing allegations of alcohol abuse and womanizing. Tower's work as a consultant for defense contractors also was questioned as a possible conflict of interest. Republicans countered that the allegations were unfounded and that the Democrats simply wanted to eliminate a strong advocate for policies they opposed.

Bush watched another intense confirmation battle unfold two years later, when he nominated Judge Clarence Thomas to the Supreme Court. Thomas, chosen to succeed Thurgood Marshall as the only Black on the Court, won confirmation but only after an unprecedented airing of allegations of sexual harassment leveled against him by Anita F. Hill, a law professor who previously had worked for Thomas at two federal agencies. The bitter and divisive battle was complicated by the belief of many members of the Democratic-controlled Congress that Thomas was too conservative in his judicial philosophy.

In 1993, personal conduct took a different twist when Clinton had to drop his first two choices for attorney general—corporate attorney Zoë Baird and federal judge Kimba M. Wood—after questions arose over their use of illegal immigrants as domestic workers.

Recess Appointments

Presidents have one way to get around the Senate confirmation process, although it works only temporarily. But used aggressively, it can inflame partisan divisions. The Constitution allows the president to fill vacant positions during recesses in the middle of a session or between sessions of Congress, when the Senate is not meeting. These “recess appointments” are allowed to stand until the completion of the Senate’s next session. Such appointments—a remnant of early days when senators could be away and out of touch with Washington for months—were traditionally limited to noncontroversial nominees, but that tradition took a beating after President Bush’s election in 2000.

In 2002, during a congressional recess, President Bush appointed Otto J. Reich as assistant secretary of state for western hemispheric affairs. Reich and Senator Christopher J. Dodd (D-Conn.) had clashed for two decades over policy toward Latin America, and Dodd, then chair of a Senate Foreign Relations Committee subcommittee on western hemispheric affairs, refused to hold a confirmation hearing. When Reich’s temporary appointment expired, Bush named him a special envoy for western hemisphere initiatives.

Later, in 2005, Bush gave a recess appointment to John L. Bolton as United Nations ambassador. Bolton was an aggressive, confrontational, and controversial State Department official who Democrats said displayed all the wrong approaches to U.S. diplomacy and would be especially offensive at the UN. Democrats blocked confirmation, but Bush gave him a recess appointment, nevertheless. Bolton resigned the job before the 110th Congress, controlled by Democrats, convened.

Obama’s clashes with Republicans prompted him to make recess appointments in his first term, though his 32 were far fewer than Bush’s 171 and Clinton’s 139. The most prominent was that of former Ohio attorney general Richard Cordray to head the new Consumer Protection Financial Bureau, an agency that most Republicans had adamantly opposed creating because of suspicions it would excessively interfere with the financial industry. Six months after submitting Cordray’s nomination, Obama used a recess appointment in January 2012 to put him in the post. The president also named three officials that year to the National Labor Relations Board through recess appointments. But the U.S. Court of

Appeals for the District of Columbia ruled in January 2013 that Obama had exceeded his authority because it said that presidents only may use the power during recesses that occur between normal sessions of Congress. Some legal scholars said the ruling could sharply curtail, if not entirely eliminate, the use of recess appointments. The Republican-controlled Senate meant Trump did not have to rely on recess appointments. But Trump, in April 2020, invoked the possibility of taking the extraordinary act of forcing an adjournment of Congress to make recess appointments to address the coronavirus.

See also Congressional Powers; Courts; Electing the President; Executive Branch; Oversight Power; Removal Power; Patronage; Senate; Senatorial Courtesy; Separation of Powers; *Sine Die*

Further Readings

- Abraham, Henry J. *Justices, Presidents and Senators: A History of U.S. Supreme Court Appointments from Washington to Bush II*. Lanham, MD: Rowman & Littlefield, 2008.
- Lewis, David E. *The Politics of Presidential Appointments: Political Control and Bureaucratic Performance*. Princeton, N.: Princeton University Press, 2008.
- Marcus, Ruth. *Supreme Ambition: Brett Kavanaugh and the Conservative Takeover*. New York, NY: Simon & Schuster, 2019.
- McKenzie, G. Calvin. *The Imperiled Presidency: Leadership Challenges in the Twenty-First Century*. Lanham, MD: Rowman & Littlefield, 2017.
- McKenzie, G. Calvin, ed. *Innocent Until Nominated: The Breakdown of the Presidential Appointments Process*. Washington, DC: Brookings Institution Press, 2001.
- Nells, Chambers Y., ed. *Recess Appointments: An End-Around Practice*. Hauppauge, NY: Nova Science, 2006.

APPORTIONMENT

Apportionment is an action, taken after each decennial census, of allocating the number of seats in the House to each state. The size of the House is fixed by law, as of 2021, at 435 members. The number of seats a state gets is based on its proportion of the nation's total population. All states, under the Constitution, have at least one representative, no matter the size of their populations. The remainder is distributed under a mathematical formula called the method of equal proportions. Each decennial census has been a traumatic moment for many states, at least for those—such as in the Midwest or the Northeast—that have been losing

population to the South and Southwest. That population shift meant that some states would lose seats, and thereby clout, in Congress for the next decade.

See also Reapportionment and Redistricting

APPROPRIATIONS BILLS

One of Congress's most important duties each year is to pass bills appropriating money to operate government agencies and programs. The Constitution says money cannot be drawn from the U.S. Treasury except "in consequence of appropriations made by law." If Congress did not provide money in appropriations bills, the government would have to shut down. Brief shutdowns occur from time to time when Congress fails to appropriate funds in time, usually as a result of policy disputes with the president.

Appropriations bills provide legal authority to spend money previously approved in authorization bills, but they need not provide all of the money authorized and usually do not. This has often been a source of tension between authorizing committees and special-interest groups, which take pride in creating new government programs, and appropriators, who historically have seen themselves as guardians of the Treasury and frequently acted to limit the scope of programs by not fully funding them.

By custom, the House acts first on appropriations bills; the Senate revises the House version, although on occasion it has written its own separate measure.

Each year, Congress must pass twelve regular appropriations bills by October 1 to fund the various parts of the federal government, although the number has varied somewhat in recent years and for several decades totaled thirteen. About one half of federal spending each year is funded through this process. The other half is funded automatically, by the authority granted by laws governing entitlements and other mandatory programs, including interest on the national debt. Each of the regular appropriations bills covers one or more governmental functions—one bill covers defense, for example, while another covers labor, health and human services, and education. The twelve regular appropriations bills are as follows:

- Agriculture, Rural Development, Food and Drug Administration
- Commerce, Justice, Science
- Defense
- Energy and Water Development

- Financial Services and General Government
- Homeland Security
- Interior, Environment
- Labor, Health and Human Services, Education
- Legislative Branch
- Military Construction, Veterans Administration
- State, Foreign Operations
- Transportation, Housing, and Urban Development

In addition to regular appropriations bills, Congress usually passes one or more supplemental appropriations bills annually to provide funds for unbudgeted programs or events, or—more rarely—for ongoing events of special importance. By 2013, the most important example of the latter was Hurricane Sandy, which wreaked billions of dollars' worth of damage on several East Coast states in fall 2012. In previous years, Congress also passed numerous supplemental bills to fund the wars in Iraq and Afghanistan.

Other notable examples include supplemental appropriations to fund the Persian Gulf War in 1991, for emergency urban aid after the Los Angeles riots in 1992, for farmers after severe crop and weather damage in the late 1990s, and for relief and rebuilding from devastation in many southern states, especially Louisiana, following Hurricane Katrina in 2005.

If one or more of the regular appropriations bills have not been enacted by October 1, Congress typically passes a continuing resolution to keep agencies operating temporarily. The continuing resolution may last only a few days or up to an entire fiscal year. It can cover one function or the whole government in an omnibus bill. A dramatic example occurred in 2007 when Democrats, who had just taken back control of Congress from Republicans after the 2006 elections, decided to fund most of the government for fiscal 2007, which would end at the end of September that year, through a continuing resolution. Only two regular bills for that year had cleared, one of them for defense and the other for homeland security. Democrats, newly in control, decided it was better to start with a fresh approach to appropriations by focusing on the fiscal 2008 bills rather than revisit the many conflicts and controversies in the unfinished 2007 bills.

Omnibus Bills

Since then, the use of omnibus measures has become commonplace, as spending disagreements have complicated work on approving appropriations bills through the normal budget process. The enormous size of the bills often makes them targets for critics of federal spending. Conservatives criticized the \$1.4 trillion

year-end spending bill in December 2020 for designating veterans' health care and other Democratic priorities as "emergency funding," exempting it from spending limits. The Heritage Foundation called it "a blatant abuse of the system and a naked attempt to avoid making choices to prioritize funding for an important and politically popular program." A follow-up omnibus bill for coronavirus relief drew more complaints from Republicans, who said the 5,600-page document was being rushed through. "No one will be able to read it all in its entirety. Special interests win. Americans lose," tweeted Representative Andy Biggs (R-Ariz.), head of the conservative House Freedom Caucus.

Other omnibus bills have drawn controversy because of their inclusion of riders. Such riders frequently delay the passage of such bills. Language in the 2020 year-end omnibus bill included a provision that would have prevented the Interior Department from applying the Endangered Species Act to the greater sage grouse, a bird whose habitat has been threatened by oil and gas development. Many Democrats complained, but in the end, they were unable to prevent the sage-grouse rider from making it into the final version.

Permanent Appropriation, Authorization

A permanent appropriation is one that remains continuously available, without action or renewal by Congress, under a previous enactment. A major example is payment of interest on the public debt. Another covers salaries for members of Congress. Similarly, a permanent authorization is one without a time limit. Usually, it does not specify a limit on funds that may be appropriated for an agency, program, or activity that the authorization covers. Instead, decisions on amounts are left to the Appropriations committees and the two houses.

See also Authorization Bills; Budget Process; Budget Terms; Committee System; Continuing Resolution; House Committees; Legislation; Legislative Process; Omnibus Bills; Purse, Power of; Reform, Congressional; Senate Committees; Vetoes

ARCHITECT OF THE CAPITOL

The post of architect of the Capitol has existed as a permanent position since 1876, when Congress transferred to the architect the functions performed previously by the commissioner for public buildings and grounds. However, beginning with William Thornton in 1793, twelve presidential appointees have had the architect's responsibility for construction and maintenance of the Capitol.

CLOSER LOOK

The following is a list of persons who have been appointed by the president to serve as architect of the Capitol, although under other titles in the early years:

1793–1794	William Thornton
1803–1811, 1815–1817	Benjamin Henry Latrobe
1818–1829	Charles Bulfinch
1851–1865	Thomas Ustick Walter
1865–1902	Edward Clark
1902–1923	Elliott Woods
1923–1954	David Lynn
1954–1970	J. George Stewart
1971–1997	George M. White
1997–2007	Alan M. Hantman
2007–2018	Stephen T. Ayers (served as acting until May 2010)
2020–	Brett Blanton

The architect of the Capitol need not be a professional architect, for the position today is largely an administrative one. The architect is charged with the structural and mechanical care of the following buildings: the Capitol and two hundred acres of grounds, the Senate and House office buildings, the Library of Congress buildings and grounds, the U.S. Supreme Court buildings and grounds, the Senate garage, the Thurgood Marshall Federal Judiciary Building, the Capitol Police headquarters, the Robert A. Taft Memorial, and the Capitol Power Plant, which heats and cools some buildings in addition to the Capitol complex. The architect also is charged with the operation of the U.S. Botanic Garden and the Senate restaurants.

The architect performs these tasks under the direction of the Speaker of the House, the Senate Committee on Rules and Administration, the House Office Building Commission, and the Joint Committee on the Library. Employees working for the architect of the Capitol include tree surgeons, stone inspectors, nurses, subway car and elevator operators, electricians, garage workers, and flag clerks. Services provided for congressional committees and members of Congress by the architect's office include workspace design, furniture acquisition and delivery, housekeeping, painting, and catering.

A 1989 law established an appointment process and a ten-year term, with eligibility for reappointment. A congressional commission recommends three names

to the president, who makes the appointment, which is subject to Senate confirmation. The architect since 2020 has been Brett Blanton, a retired Navy engineer.

See also Capitol Building

ASIAN AMERICANS IN CONGRESS

Asian Americans are the fastest-growing major U.S. racial or ethnic group. More than 20 million Asians live in America, and a record twenty members of the 116th Congress (2019–2020) had Asian, South Asian, or Pacific Islander (the Indigenous peoples of Oceania, such as Polynesians, Melanesians, and Micronesians) ancestry. Seventeen served in the House, while three served in the Senate. By comparison, in the mid-1980s, Congress had just seven Asian American or Pacific Islander members.

Four additional House members joined them in 2021: two Korean American Republicans from California, a Korean American Democrat from Washington state, and a Native Hawaiian Democrat from that state.

Congress's first Asian American member was Dalip Singh Saund, a Democrat who represented the 29th District of California from 1957 to 1963. Born in Punjab, India, he was also the first Sikh American and Indian American to serve. While in office, he sponsored a measure that allowed South Asians to become U.S. citizens. But the first Asian Pacific American to serve in Congress was Robert William Wilcox, a Native Hawaiian who was the first to represent the then territory of Hawaii in the House. He was elected as a delegate in 1900 and served until 1903. Another Native Hawaiian, Jonah Kūhiō Kalaniana'ole, represented Hawaii as a delegate from 1903 until 1922. When Hawaii became a state in 1959, it sent as one of its two senators Republican Hiram Leong Fong, who served from 1959 to 1977. Fong also was the first American of Chinese ancestry elected to Congress.

Another Hawaiian, Democrat Daniel K. Inouye, was the Asian Pacific American with the longest congressional service, and he has been hailed as one of modern history's greatest senators. He was in the House from 1959 to 1963, then the Senate from 1963 to 2012. He was the first American of Japanese ancestry to be elected to Congress and Hawaii's first member of the House after its admission to the Union. He served in the Senate until his death, becoming a powerful figure as head of the Senate Appropriations Committee as well as chairing the Intelligence and Indian Affairs committees. A World War II veteran who lost an arm in combat, Inouye was awarded the Congressional Medal of Honor in 2000.

Several members had the distinction of being “firsts” in the 111th Congress (2009–2011). Republican representative Steve Austria of Ohio, a first-generation Filipino American, was elected along with Representative Anh “Joseph” Quang Cao, the first Vietnamese American. Democrat Gregorio Kilili Camacho Sablan, the first delegate elected to represent the Northern Mariana Islands, is Chamorro with Hispanic and English ancestry.

Two combat veterans—both women—were elected to the 113th Congress (2013–2015): Representative Tammy Duckworth of Illinois, an Iraq War veteran and purple heart recipient, and Hawaii representative Tulsi Gabbard, who served two tours of combat duty in the Middle East. Duckworth, who is Chinese Thai American, was elected to the Senate in 2016, and Gabbard, who was the first American Samoan in Congress, launched a brief presidential bid in 2020.

California has sent more Asian Americans to Congress than any other state. One of the best known was Norman Mineta, who was born to Japanese immigrant parents and who lived in an internment camp for Japanese during World War II. He served in the House from 1975 to 1995 and eventually chaired the Transportation and Infrastructure Committee. In 1994, he founded the Congressional Asian Pacific American Caucus. During President Bill Clinton’s administration, Mineta served as secretary of Commerce from 2000 to 2001, and when Republican George W. Bush succeeded Clinton, he kept Mineta in his cabinet as secretary of Transportation.

Another Asian American from California who spent part of his childhood in a Japanese internment camp was Mike Honda, a Democrat who served in the House from 2001 to 2017. In a 2005 speech, Honda lamented that Asian Americanism “is often misperceived as monolithic. Our community is extremely diverse in our languages, ethnicities, and culture. Aggregating such a large and diverse group makes it difficult to understand the unique problems faced by the individual and subgroups.”

A 2011 book, *Asian American Political Participation*, by a group of California-based political scientists bore out Honda’s assertions: It found that Chinese Americans, for example, have significantly higher levels of educational attainment than Japanese Americans, but that the latter group was far more likely to vote and make political contributions. And Vietnamese Americans, with the lowest levels of education and income, voted and engaged in protest politics more than any other group.

One Vietnamese American, Stephanie Murphy, was elected to the House from Florida in 2016. Murphy’s parents fled Vietnam in 1979 when she was six months old. She became an analyst for the Defense Department and helped to organize the U.S. Navy’s rescue, relief, and recovery assistance to victims of the 2004 Indian Ocean tsunami. “I always say it was the greatest honor of my life, to be able to

work alongside uniformed men and women, knowing that they rescued me at sea,” Murphy told FloridaPolitics.com. She later became one of the co-chairs of the fiscally conservative Blue Dog Coalition.

The Asian American who has achieved the most prominence, however, is Kamala Harris. Her mother was an Indian immigrant, while her father was Jamaican American. Harris became a Golden State Democratic senator in 2017 and ran for president in 2020. Though she ended her bid, she made a strong impression on rival Joe Biden, the eventual nominee, who chose her to be his running mate.

Much of the attention derived from Harris’s background as the first Black woman on the presidential ticket, with less paid to her Asian American roots. Nitasha Sharma, an associate professor of African American Studies and Asian American studies at Northwestern University, said the issue was complicated, in part because “a lot of South Asians don’t consider themselves to be Asian American.” Sharma told National Public Radio that “Asian American” is a political identity. “So the folks who are, say, academics in Asian American studies on university campuses can see a ready identification with Kamala Harris as part of the Asian immigrant story,” Sharma said. “But Kamala Harris is not an ‘Asian American’ to some South Asians and Indian Americans—she’s *Indian*. So I think that there’s those various levels, and Kamala can be all of those things.”

See also Blacks in Congress; Characteristics of Members of Congress; Harris, Kamala; Latinos in Congress; LGBTQ Members of Congress; Native Americans in Congress; Women in Congress

Further Readings

Harris, Kamala. *The Truths We Hold: An American Journey*. New York, NY: Penguin, 2019.

Kowalewski, Albin. *Asian and Pacific Islander Americans in Congress, 1900–2017*.

Washington, DC: U.S. Government Publishing Office, 2017.

Wong, Janelle, S. Karthick Ramakrishnan, Taeku Lee, and Jane Junn. *Asian American Political Participation: Emerging Constituents and Their Political Identities*. New York, NY: Russell Sage Foundation, 2011.

AUTHORIZATION BILLS

Congress passes authorization bills to determine which programs and agencies the federal government is allowed to operate. Authorization bills may create legal authority for new programs or continue the operation of existing ones, either

indefinitely or for one or several years. These bills set policy and procedures for government programs. Some authorizations set a ceiling on the amount of money that may be appropriated for the programs; others are open ended, simply permitting the appropriation of “such sums as may be necessary.”

Authorization bills do not themselves provide money; that requires separate action through the appropriations process. In fact, historically, members of appropriations committees—seeing themselves as guardians of the Treasury and many carrying a conservative philosophy about government spending—have provided less, sometimes much less, for programs than the authorizing legislation allowed. Congressional rules state that programs must be authorized before money can be appropriated for them, but the requirement is often waived. Members of authorizing committees resist this waiver but have little power to prevent it, because they believe it diminishes their role in overseeing and guiding programs. The Defense Department and the intelligence community agencies such as the Central Intelligence Agency (CIA) are the ones that most frequently are subject to both authorization and appropriations bills. In December 2021, lawmakers succeeded in passing the first State Department authorization bill since 2002. It was done as part of the annual defense authorization law.

See also Appropriations Bills; Bill; Budget Terms; House Committees; Legislation; Legislative Process; Purse, Power of; Reform, Congressional; Senate Committees

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