

CRS Report for Congress

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Legislative History: A Basic Guide For Constituents

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Summary

This report provides an overview of *legislative history* of federal legislation. The report briefly outlines the legislative process and then suggests where to find materials that describe or document a piece of legislation's progress through Congress.

Legal, policy and legislative researchers often study how Congress considered a particular piece of legislation. A variety of questions may underlie this effort. For example: What were the policy and intent of Congress in approving a particular piece of legislation? Which committees and Members were the lead players? What arguments were asserted for or against the legislation and who made them? How was the legislative language amended as it advanced through the congressional process? What were the votes on proposed amendments and final passage?

To research these and similar questions, one must identify the legislative steps the legislation followed and the materials that document what was done at each step. This information – the legislative steps and accompanying documentation – is known as *legislative history*.

This report provides general assistance in two ways. First, it briefly reviews the legislative process. Second, it suggests sources that describe or document a piece of legislation's progress through Congress.

The Legislative Process

The following is a short summary of the legislative process in Congress. A more detailed guide is available electronically on Thomas, a service of the Library of Congress described below.

Forms of Legislation.

Bills. Most legislation that is introduced by a Member of Congress (*i.e.*, the legislation's *sponsor*) is introduced as a "bill," the general form used for legislation that will have the force of law if enacted. Bills are numbered sequentially in order of their introduction. Bills introduced in the Senate are preceded by "S." for a Senate bill, those in the House by "H.R." for a House of Representatives bill. Legislation remains pending from time of introduction until final passage or the final adjournment of a Congress (*i.e.*, the numbered two-year convocation of the House and Senate that begins January 3 following each biennial federal election). Bills not enacted during a Congress "die"; further legislative consideration requires that they be reintroduced in the next Congress. Upon passage and Presidential approval, or passage by a two-thirds majority in both chambers after a President's veto, a bill becomes law.

Joint Resolutions. While bills are used for purposes of general legislation, joint resolutions are used to propose constitutional amendments and for a variety of special or subordinate purposes, such as continuing appropriations. Except for those proposing constitutional amendments, joint resolutions (S.J.Res. or H.J.Res.) become law in the same manner as bills. If those proposing constitutional amendments are approved by a two-thirds majority in each chamber, they are submitted to the states for ratification (rather than to the President for approval). Three-quarters of the states must ratify the constitutional amendment or it fails.

Resolutions. Resolutions (S. Res. or H. Res.), also known as "simple resolutions," are unicameral proposals that are used for matters concerning the operation of the chamber where introduced and approved. They may be used for creating an ad hoc investigatory committee or changing the rules under which the chamber operates, or to express the principles, opinions, or purposes of the chamber as distinguished from the entire Congress. They do not have the force of law.

Concurrent Resolutions. Concurrent Resolutions (S. Con. Res. or H. Con. Res.) affect operations of both chambers and are primarily used to express the principles, opinions, or purposes of the Congress or to create a joint committee. They do not become law, but rather are effective upon approval by both chambers. Budget resolutions are an example of concurrent resolutions.

Committee Action.

Legislation is referred to a committee after introduction, according to its subject matter. Most commonly, a committee will further refer the legislation to one of its subcommittees. The subcommittee may request reports from government agencies or departments, hold hearings, mark up the bill (adopt revisions), and report the legislation to the full committee. The full committee may take similar action, with or without prior subcommittee consideration, and report the legislation to its full chamber (*i.e.*, the House or Senate).

Hearings. Hearings provide a committee or subcommittee the opportunity to explore topics or legislation. Hearings may include statements of committee members and interested parties, as well as the testimony of witnesses. Hearings may inform Members and committees in their further consideration of the legislation.

Reports. Most legislation never proceeds through full committee consideration and it languishes in committee for the remainder of a Congress. However, committees, by majority vote, do find that some bills and resolutions merit consideration by the entire chamber. As suggested above, most legislation that receives attention by a full committee has been previously considered by a subcommittee, which may or may not have debated and revised the original text during a “markup” session. However, the changes made during subcommittee markup and the reasons for them may be difficult to determine; subcommittees do not issue a formal report of its action on the legislation.

By contrast, the full committees report to their respective chambers. The House requires a report, but the Senate does not. This is usually a written committee report explaining the committee’s actions, understandings and conclusions. Prospective costs and regulatory impact are among the supplemental materials that must be included in committee reports.

Committee reports are identified as House Report (H.R. Rpt.) or Senate Report (SR Rpt.) and given a number (e.g. Senate Report 107-31 is the 31st report to the Senate in the 107th Congress).

Floor Action.

Debate. Legislation may be brought up for consideration by the full House or Senate after it is reported by a committee or, without a committee, under a special parliamentary motion. The length and scope of debate (*e.g.*, which floor amendments, if any, will be considered) are governed by the rules of the respective chambers. Votes on amendments and final passage may or may not be in the form of a formal recorded vote, in which the vote of each Member is identified.

Second Chamber Consideration. After legislation is passed by one chamber, it is referred to the other chamber for action. If the second chamber chooses to consider the legislation and passes it without change, it is submitted to the President for approval. More commonly, however, the bill passed by the first chamber deals with issues that were the subject of similar or identical legislation introduced in the second chamber, where separate hearings may have been held and a report or reports made on the second chamber’s version of the legislation. Typically, the legislation passed by the first chamber will be held, while the second chamber considers its own version, which it substitutes for the version passed by the other chamber. The result is legislation with the same number passed by both chambers but in different versions.

Conference.

If there are differences between the House and Senate versions of a piece of legislation, the last chamber to adopt its version may send its language back to the other chamber for further consideration in amended form. Frequently, however, the two chambers establish a conference committee to reach agreement on a common version. Each chamber appoints conferees, usually members of the original reporting committees, who may take up only those areas in disagreement. Each chamber votes as a unit in the conference committee. A majority of the Senate conferees and a majority of the House conferees must agree on what to report.

Upon reaching agreement on a common version, a conference committee issues a report setting out the text of the legislation agreed to and a joint explanatory statement. The report is usually printed as a House Report.

If passed by both chambers in identical form, the legislation (if a bill or joint resolution) is sent to the President.

Presidential Action.

The President may approve a measure, veto it, or take no action. If the President takes no action, the legislation becomes public law after ten days (Sundays excepted) unless final adjournment of Congress has occurred, in which case the legislation does not become law (known as a “pocket veto”).

If the President vetoes the legislation, the Congress may override the veto, if two-thirds of the House of Representatives and two-thirds of the Senate separately vote to override the veto. If the two chambers vote to override the veto, the legislation becomes law without the President’s signature.

Legislative History Resource Material

The resource materials discussed below vary in scope. For example, *Thomas*, a website of the Library of Congress noted below, is a portal to all the information most researchers are commonly interested in. However, the information that is available on it is limited to more recent Congresses. By contrast, print materials may be historically complete, but limited to only one step of the legislative process.

Resource materials also vary in their respective availability. Some reference sets are commonly available at local libraries, others are often available only at law libraries or federal depository libraries.

Some stages of the legislative process are more fully documented than others. For example, bills are often debated and amended extensively during their consideration by congressional subcommittees, but these deliberations are not memorialized in written reports. Information on subcommittee action often is limited to discussion in news or newsletter accounts or in full committee reports, if any, on the same legislation.

Legislative History Material on the Internet.

The Internet has made legislative history resources more widely available to both the legal profession and the general public. The following sites are recommended.

Thomas

[<http://Thomas.loc.gov>]

Bill Summary and Status starting with 93rd Congress (1973)

Bill Text starting with 101st Congress (1989)

Committee Reports starting with 104th Congress (1995)

Congressional Record starting with 101st Congress (1989)

Public Laws starting with 93rd Congress (1973)

Links to House and Senate Committees for Committee Reports and Hearings

A Century of Lawmaking For A New Nation

[<http://lcweb2.loc.gov/ammem/amlaw/lawhome.html>]

This online collection contains the records of the U.S. Congress from 1774 to 1873, the year in which the Government Printing Office assumed publication of the proceedings of Congress and the *Congressional Record* began.

GPO Access

[http://www.access.gpo.gov/su_docs/legislative.html]

This online collection of Congressional publications and data bases contains information and text of legislation, Congressional Record, House and Senate Calendars, Committee Prints, Committee Hearings, Committee Reports, House Journal, among other material useful for legislative research.

Legislative History Printed Material.

Congressional Record and Congressional Record Index. The Congressional Record is the primary source for floor debate and a summary of the daily proceedings of the House and Senate. The *Congressional Record Index* lists all legislation by number. Referenced are all pages in that year's Record on which the legislation is mentioned. Note that legislation introduced during the first session of Congress must be checked in the *Index* for the second and any succeeding session of the same Congress as well.

Committee Hearings and Reports. Committee hearings and reports are usually printed by the Government Printing Office. Reports are sometimes reproduced in whole or part by commercial publishers.

Committee Prints. Committee prints are used to duplicate research papers of interest to the committee, papers prepared by the committee staff, reports on investigative and oversight hearings and activities, and analyses and information on legislation. Committees sometimes reproduce legislative histories of enactments within their jurisdiction in a committee print. Some committees use prints for reproducing compilations of laws that come under their legislative jurisdiction.

U.S. Code Congressional and Administrative News. The USCCAN, a commercial service, reprints the major report and conference report, or portions thereof, for most public laws enacted since 1941, along with the text of the Public Law.

Congressional Information Service. CIS Index, a commercial service, lists each public law in the Annual Abstracts volume and references each publication concerning the law. These references include printed hearings, reports, documents, and prints back to 1970. CIS Legislative Histories, contains the legislative histories of selected Public Laws back to 1970. CIS Historical Index contains congressional documents from 1789 through 1972. CIS reproduces these legislative documents on microfiche.

Congressional Quarterly Almanac. CQ Almanac, a commercial publication, often includes valuable background information as well as references to relevant material on major legislation. The CQ Almanac also contains all roll call floor votes.

Digest of Public General Bills and Resolutions. The *Bill Digest*, a publication of the Library of Congress from 1936 until 1990, contains summaries and status of legislation.

House and Senate Calendars. House and Senate Calendars are published periodically during the session by the Clerk of the House and the Secretary of the Senate. Legislation is listed and, in the House Calendar, the history and current status of legislation receiving action is summarized.

Weekly Compilation of Presidential Documents. The Weekly Compilation of Presidential Documents, contains Presidential documents, acts signed by the President and signing statements.

GAO Legislative History Microfiche. The GAO Legislative History Microfiche from 1921, contains the complete legislative history of selected Public Laws.