

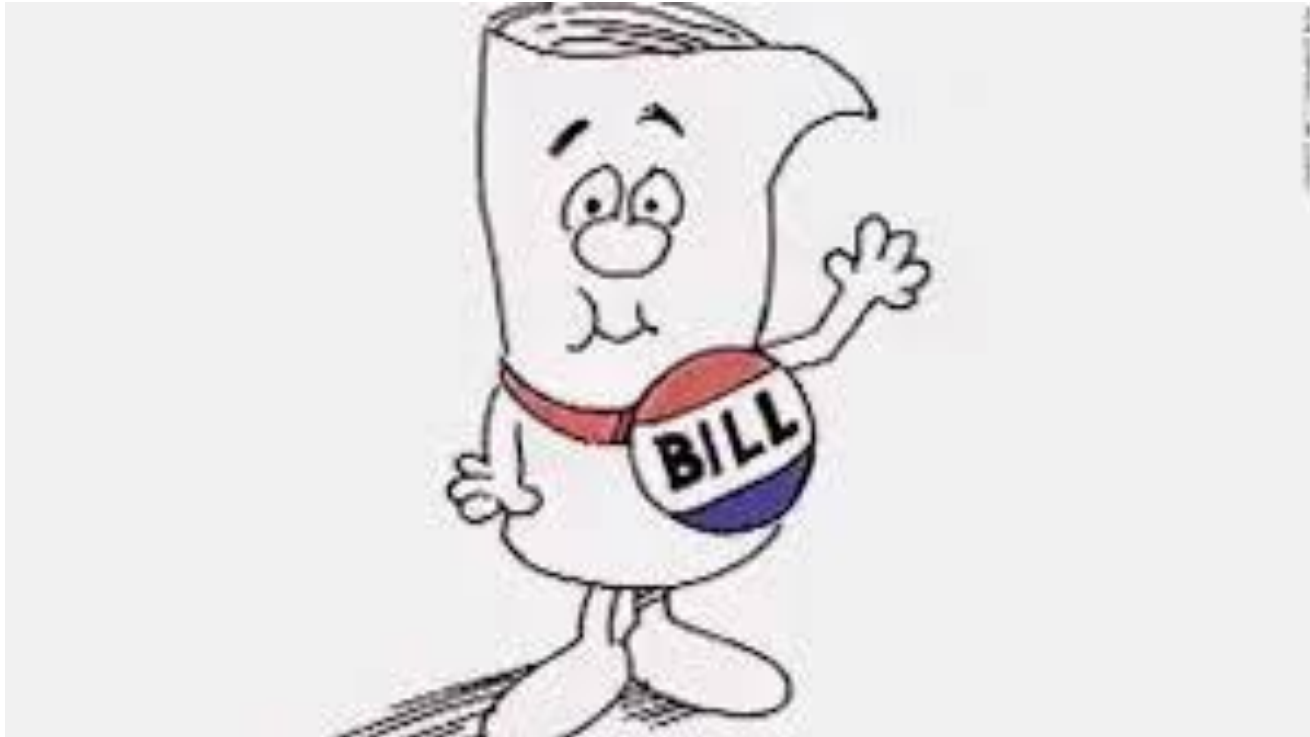
Federal Legislative Process Overview

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I'm just a bill...



Let's take a deeper look – House procedures and rules



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| Introduction of Bill |
| Referral to Committee |
| Referral to Subcommittee |
| Hearings |
| Post-Committee Revisions |
| Referral to House Rules Committee |
| Debate |
| Passage |

Let's take a deeper look – House procedures and rules



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| Referral to Subcommittee | <ol style="list-style-type: none">1. No referral required (much less consideration)2. By chair of standing or permanent committee3. Subject domain of subcommittee “flexible” | |



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| Referral to House Rules Committee | <ol style="list-style-type: none">1. Rules Committee selects rule – Open, Closed2. House can suspend rules if it chooses, or can debate the rule itself (rather than the merits of underlying bill)3. If rule fails (and is not suspended), the House won't consider the underlying bill | |
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Let's take a deeper look – House procedures and rules

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| Debate | <ol style="list-style-type: none">1. Formation of Committee of the Whole2. Chaired by reporting Committee or Subcommittee3. Streamlined rules, reduced quorum (100)4. Debate with floor amendments as allowed by Rule5. After debate, House reconvenes | |
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Let's take a deeper look – House procedures and rules



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| Passage | 1. Passage of entire bill, but additional reconsideration of amendments possible | |
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Now to the Senate





Let's take a deeper look – Senate procedures and rules

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| Introduction of Bill | By any Senate member, but only Senate members. | |
| Referral to Committee | <ol style="list-style-type: none">1. Typically by Senate Parliamentarian2. Referred to one committee; multiple referrals discouraged3. No rule requires committee consideration; majority and minority leaders can agree to move to floor4. Can also bypass committee by adding bill to another floor bill as amendment – no germaneness rule | |
| Referral to Subcommittee | <ol style="list-style-type: none">1. No rule requirement for referral to subcommittee2. By chair | |
| Hearings | <ol style="list-style-type: none">1. Again, not required2. Mark-ups – not on the record3. Reported favorably out of committee4. Committee report prepared | |
| Post-Committee Revisions | <ol style="list-style-type: none">1. Common occurrence in Senate – a necessary prelude to build 60 votes needed for unanimous consent agreement2. By individual senators or leaders – not limited to sponsors or chairs | |



Let's take a deeper look – Senate procedures and rules

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| Unanimous Consent Agreement | <ol style="list-style-type: none">1. No Rules Committee2. Sets out procedures for considering bill3. Any Senator can object | |
| Filibuster | <ol style="list-style-type: none">1. 60 vote threshold2. Place a hold (“costless”)3. Can filibuster virtually any Senate action (with important exceptions re budget legislation)4. Nominations – nuclear option with Senate precedent (2013, 2017)5. Blue slips – now also limited by Judiciary Committee chair6. Cloture petition – need 16 signatures; try try again if fails | |
| Post-Cloture Debate and Passage | <ol style="list-style-type: none">1. Rule XXII – 30 hours2. Again, no germaneness rule typically in debate, but cloture triggers requirements that amendments be both germane and filed prior to cloture | |
| Passage | <ol style="list-style-type: none">1. In person | |





Let's take a deeper look – Reconciliation and Approval

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| Conference Committee Referral and Selection | <ol style="list-style-type: none">1. Named by majority and minority leaders of each chamber2. Normally key participants in drafting and debate – committee referral choices come back to roost | |
| Conference Committee Scope and Report | <ol style="list-style-type: none">1. Can only harmonize conflicting language2. Cannot add new provisions that don't appear in either bill (unless waived by special rule for House delegates), but can be waived by either chamber if noncontroversial3. Conference reports tend to be pithy4. Majority from each chamber must vote in favor | |
| Repassage by House and Senate | <ol style="list-style-type: none">1. Conference Report presented to each chamber with no amendments, although debate allowed on new text2. Must on entire bill, up or down (unless House appropriation bill) | |
| Presidential signature | <ol style="list-style-type: none">1. Signing statements2. Pocket veto? (Art. I, Section 7 – 10 days) | |
| Veto Override | <ol style="list-style-type: none">1. 2/3 required for override in each chamber | |
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Breaking the Rules – the Rise of Unorthodox Legislation



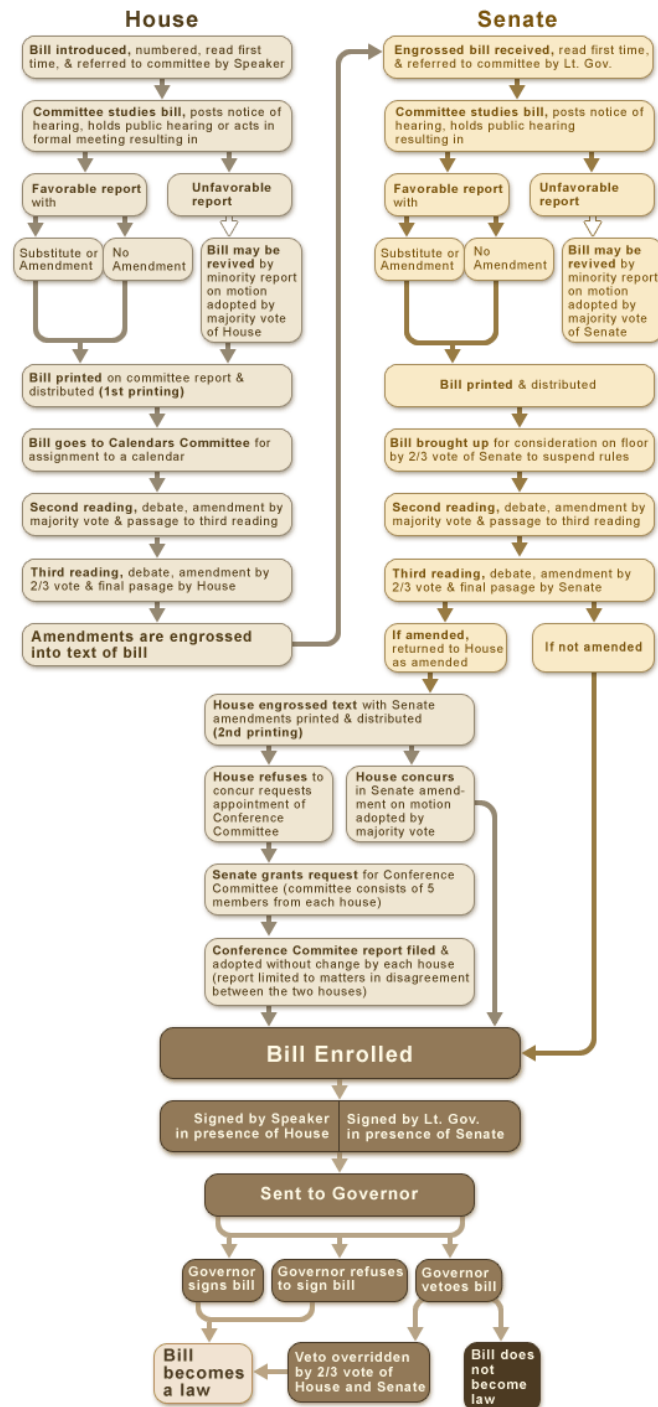
- How would you reverse engineer around the filibuster?



Breaking the Rules – the Rise of Unorthodox Legislation

- Agree in advance behind closed doors
- Bundled deals in large-scale omnibus legislation
- “Statutized Rules” – budget reconciliation process, Congressional Review Act
- Avoiding conference committees through referral tactics and language harmonization
- Delegation of authority to executive (ie, agencies)

And never forget –
states do it too,
and do it their own
way...





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