* **CONSTITUTIONAL POWERS**

Article I, Section 8, Clauses 1-18 (Enumerated Powers) of the Constitution describe the legislative powers of Congress.

1. The Taxing and Spending Power = allows Congress to levy taxes ad provide for the general welfare. This is one of the powers that have created BIG FEDERAL GOVERNMENT. **All revenue bills, or laws for raising money, must originate in the House of Representatives.** Through usage, or established practice, Congress has developed the appropriations process-the rules by which it authorizes federal agencies to spend money.
2. Other Money Powers – allow Congress to borrow money to help pay the operating costs of government, to coin and regulate the value of money, and to punish counterfeiters.
3. The Commerce Power = **authorizes Congress to regulate both interstate and foreign commerce**. Supreme Court rulings that broadly interpret the term “commerce” have allowed Congress to regulate working conditions and prohibit discrimination. **The Civil Rights Act of 1964** is a prime example of the Federal Government expanding its power. This is one of the powers that have created BIG FEDERAL GOVERNMENT.
4. Foreign Policy Powers = includes the power to approve treaties and to declare war. **CONGRESS DECLARES WAR not the President.**
5. Other Legislative Powers = include the power to make all laws that are **“necessary and proper**” gives Congress **implied powers**; this **elastic clause** allows Congress to expand its powers as the nation grows.
6. Nonlegislative Powers = If no presidential candidate receives a majority of the electoral votes, the House of Representatives chooses the president from among the three candidates with the most electoral votes. Next is that the Senate has the power to approve presidential appointments (from Judges to Cabinet Members to Ambassadors). Congress has the power to remove any member of the executive or judicial branches from office for serious misconduct. This is known as impeachment (House of Representatives brings the charges and the Senate holds the trial…for “high crimes and misdemeanors). Finally, Congress has the power to propose constitutional amendments. This is a true example of Federalism because the Congress proposes and the states must ratify the amendment.

* **INVESTIGATION AND OVERSIGHT**

Over the years Congress has developed additional powers (Informal Changes to the Constitution) that are inherent in government but are not mentioned in the Constitution. These inherent powers fall into one of two categories: the power to investigate and the power of oversight. The congressional power to investigate has been important in American politics since 1792. The key elements of **investigative power** include the following:

1. A standing committee or a select committee may conduct investigations.
2. The most frequent results of investigations include new legislation, changes in a government program, or removal of officials from office.
3. Congress, like the courts, has the power to issue subpoenas.
4. Witnesses who refuse to testify, or otherwise fail to cooperate can be held in contempt, that is, charged with willful obstruction of Congress.
5. Congressional committees can require witnesses to testify under oath. Untruthful witnesses can be prosecuted for perjury, or lying under oath.
6. In 1957 the Supreme Court ruled that Congress, like the courts, must respect the constitutional rights of witnesses, including the right not to give evidence against themselves (5th amendment…self-incrimination).

Congressional committees use oversight powers to check the effectiveness of the executive branch in administering the law in areas under their jurisdiction. The legislative branch has three methods of exercising **oversight powers**:

1. Lawmakers routinely ask congressional support agencies, such as the General Accounting Office, to study the workings of the executive agency.
2. Congress may use its appropriations ($$$) process to expand, cut back, or eliminate programs when it reviews the federal budget each year.
3. Congress requires executive agencies to submit reports on their activities.
4. In the past Congress wrote provisions into certain laws that allowed it to review and cancel the actions of executive agencies charged with carrying out those laws (Separation of Powers). In 1983 the Supreme Court rules that these legislative vetoes violated the principle of separation of powers.

* **CONGRESS AND THE PRESIDENT**

Cooperation between the president and Congress is essential if government is to work effectively. However, **divided government** has been the outcome in recent history. Why?

1. Different constituencies = A national electorate chooses presidents; individual states and congressional districts elect members of Congress. The difference in constituencies may lead to conflicting ideas about what public policies are desirable. Congressional elections often require casework, earmarks, and “pork”.

2. Checks and Balances = The powers that the president and Congress have to counteract each other can create an adversarial relationship.

3. Party politics = In recent decades the president’s party rarely has controlled either house of Congress. (divided government). Partisan political differences increase conflicts and impede the legislative process. Often the legislation is mediocre or “watered down”.

Throughout American history the balance of power between Congress and the president has shifted back and forth. Between 1933 and mid-1970s, Congress offered little opposition when presidents automatically exercised broad “emergency powers” to deal with crisis. Since then Congress has taken action to reassert its authority and to gain new influence. The following acts are two examples of the reasserted authority:

1. **The 1974 Budget Impoundment and Control Act** = increased the congressional role in planning the federal budget. The law also prohibits the president from impounding – refusing to spend- money appropriated for programs unless both houses of Congress agree. (somewhat successfully)
2. The 1976 National Emergencies Act = requires presidents to notify Congress before declaring a national emergency and gives Congress the power to end a state of emergency at any time by a majority vote of both houses. (not successful)
3. **War Powers Act** = requires the president to notify Congress when he is deploying troops into combat situations. If Congress is not in agreement then the President will have to bring the troops home within 60 days. (not successful) The only power that the Congress has in forcing the President to bring home the troops is the “power of the purse”.

An important new presidential power that took effect in 1997. The line-item veto allowed presidents to veto spending on specific items in an appropriations bill while letting the rest become law. The line-item veto was immediately challenged in court and declared unconstitutional (violated separation of powers = president became the lawmaker).

* **HOW A BILL BECOMES A LAW**

Members of Congress introduce thousands of bills-draft proposals- in every session. Less than 5% of the bills that are introduced survive the complicated process required to become law.

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| --- | --- |
| **House of Representatives** | **Senate** |
| **Introducing a Bill** – Representatives can introduce bills by drooping them into the hopper, a box near the House clerk’s desk. Must be done by a member of the House. | Senators must formally present a bill after being recognized by the presiding officer. Must be done by a member of the Senate |
| **Committee Action** – New bills are first sent to committees where most die from inaction. Speaker of the House assigns the bills to the committee/subcommittee. (Kill Bill)  If the committee/subcommittee decides to act on a bill, it holds hearings at which interested parties can testify. The committee/subcommittee then revises the bill and decides by majority vote whether it should be “killed” or reported/sent to the floor with a recommendation. (Kill Bill) | **Committee Action** – New bills are first sent to committees where most die from inaction. If the committee/subcommittee decides to act on a bill, it holds hearings at which interested parties can testify. The committee/subcommittee then revises the bill and decides by majority vote whether it should be “killed” or reported/sent to the floor with a recommendation.  (Kill Bill) |
| **Floor Action** – Lawmakers almost always agree with the committee recommendation. Floor debates generally focus on amendments which any lawmaker can offer. Riders are amendments on a subject other than the one covered by the bill and are not allowed in the House. House rules committee determines the time limits for debate and the rules for amendments. After debate and revision, if needed, members vote and majority rule determines whether the bill passes. (Kill Bill) | **Floor Action** – Lawmakers almost always agree with the committee recommendation. Floor debates generally focus on amendments which any lawmaker can offer. Riders are amendments on a subject other than the one covered by the bill and are not allowed in the House. House rules committee determines the time limits for debate and the rules for amendments. Lawmakers often attach riders that provide unrelated benefits for their constituents. After debate and revision, if needed, members vote and majority rule determines whether the bill passes. (Kill Bill) |
| Bills must go through both Houses… | Bills must go through both Houses… |
| **Conference Committee Action** – Both Chambers must pass a bill in the identical form before it can be sent to the president. A conference committee is formed to work out the details of any compromises needed to achieve passage. | Conference Committee Action – Both Chambers must pass a bill in the identical form before it can be sent to the president. A conference committee is formed to work out the details of any compromises needed to achieve passage. |

In addition to bills, Congress also passes **resolutions** to cover routine matters for which a law is not needed or to express its opinion on a particular matter.

* **TAXING AND SPENDING BILLS**

The House Ways and Means Committee makes the rules on tax rates, deductions, and benefits. A closed rule once forbade members to offer amendment to tax bills during floor debate. Critics charge that, after the closed rule was abandoned in 1975, tax bills became a collection of amendments written to please special interests. (Pork Barrel)

Congress uses a two-step procedure to approve the spending of government revenues.

1. An **authorization** bill sets up a federal program, specifies how much money may be allocated for the operation of that program, and designates which executive branch agency will administer the program.
2. An **appropriations** bill provides the money needed to operate the program in response to a budget request from the administering agency.

Appropriations committees in each chamber review the appropriations bills. These committees hear testimony from executive agency directors, set the final budget figure for the program, and report the bill to the floor. The final appropriations is almost always less than the amount in the agency’s budget request.

Appropriations committees have no authority over money that the government is legally committed to spending each year because of previous legislation. These “uncontrollables” account for 70% of all government expenditures. Some “uncontrollables” are called **ENTITLEMENTS** because they are for continuing social programs and can not be taken out of the budget (Social Security, Medicare, Veterans Benefits…you are entitled to the money…)

* **INFLUENCING CONGRESS**

Many factors influence a lawmaker’s decision on any given issue. Most lawmakers agree that the most important are:

* + 1. Voters or constituents (also known as the electorate)
    2. Political Parties – Representatives vote the party line (partisan) 80% of the time. However, Senators tend to be a little more independent than the House. Party influence is strongest on issues related to the economy and social welfare.
    3. The President – Televised addresses to the people has become a major way to influence the voters. The “Bully Pulpit” goes technology. The President’s “coattails” in an election cycle can be influential. As well as the President as Head of the Party. Finally, the President’s willingness to use the veto power.
    4. Interest Groups – Lobbyists use of persuasion, information, aide in writing legislation, and testifying before Congress all influence the members of Congress. Interest groups also link the voters by encouraging letter writing campaigns and working to oppose legislation. The biggest area of impact has occurred with the development of Political Action Committees (PACs). These are political fund-raising groups. PACs use the funds that they raise to support or oppose candidates during elections. Remember the goal of Interest Groups is to gain access to and have influence in Congress.
* **REELECTION IS DEPENDENT UPON…**
  + 1. Casework – helping constituents with problems related to government programs or services
    2. Pork Barrel – bring federal projects and money to the home state or district – “Bring home the bacon…” – “…implication that lawmakers dip into the federal treasury and pull out pieces of fat for their constituents…” – 2009 the term “earmarks” was interchanged with pork barrel…
    3. Lawmakers also compete among each other for grants and contracts of federal projects to be awarded to their state or district.
* **PREPARING THE FEDERAL BUDGET…(CONGRESS AND THE PRESIDENT)**

1. Revenue = 90% comes from taxes…What are the many different types of taxes?
   1. Individual income tax = 44% of government revenue - Progressive tax, which means that people with higher incomes pay a higher percentage in taxes.
   2. Corporate income taxes = 12% of government revenue
   3. Social insurance taxes = 35% of government revenue - Social Security and Medicare – These are ENTITLEMENTS…must go to people who qualify…
   4. Excise taxes - …on the manufacture, transportation, sale, or consumption of goods and services. Examples would be on cigarettes and liquor.
   5. Customs duties (tariffs) = 2% - levied on goods imported into the US
   6. Estate taxes (often referred to as Death taxes) – levied on the assets of a person who dies and can be levied on gifts of money from a living person if it is over a specified amount…
   7. Borrowing= 10% of government revenue
2. How is it done?
   1. Budget and Accounting Act of 1921 gave the President responsibility for overseeing the preparation of the budget.
   2. Federal Budget operates on a fiscal year (October 1 – September 30 of the following year)…Budget preparation begins 19 months in advance.
   3. Steps of the budget process:
      1. Each federal agency draws up its spending plans and sends this to the Office of Management and Budget (OMB)
      2. President reviews and returns with guidelines for the final budgets
      3. Agencies make modifications to fit the President’s guidelines...OMB and agency heads negotiate funding reductions/increases
      4. OMB submits the complete budget document for the President’s final review (President may make changes…)
      5. Sent to Congress
      6. House and Senate Budget Committees review the President’s proposals and prepare a concurrent resolution that sets forth the federal spending and tax plan for the coming fiscal year
      7. Congressional committees reconcile, or fit, the plans in the concurrent resolution to existing programs. Then they draft a reconciliation bill that the House and Senate must approve. President signs or vetoes
      8. The House passes an appropriations bill which sets aside money for the expenditures approved. President signs or vetoes
   4. The Gramm-Rudman-Hollings Act of 1986 attempted to reduce the budget deficit. GRH required that each budget item automatically be cut by a certain percentage if the President and Congress could not agree on specific program cuts. (Failed because the government kept revising the deficit reduction targets to avoid the automatic spending cuts.)
   5. The budget generally changes only in small degrees or increments each year. Most agencies assume that they will receive at least the same amount of money as was appropriated the year before.

* **MANAGING THE ECONOMY**

1. Government spending: interest on the debt, direct benefit payments to individuals (usually entitlements like Social Security), national defense, and grants to states and local communities.
2. almost 50% to health care and social programs
3. almost 16% to national defense
4. Federal grants fund services ranging from road repairs to school lunch programs.
5. Fiscal policy = taxation and spending to influence the economy – By reducing taxes the government is giving consumers and investors more money, which in turns creates jobs.
6. Monetary policy = influencing the economy through control of the money supply and credit. The Federal Reserve System exercises this control. Fed is divided into 12 districts and is the central banking system of the US. A bank for banks. A 7 member Board of Governors supervises the Fed. The President, with Senate approval, appoints these Governors. Once appointed, Federal Reserve Governors have extensive freedom to make economic decisions independent of political influence. They use 3 main tools:
   1. Raise or lower the discount rate – This is the interest rate that the Fed charges banks for loans. High discount rate means banks will borrow less money and have less money to loan out.
   2. Raise or lower the reserve requirement – This is the percentage of its deposits that a member bank must keep in the Federal Reserve Banks. The higher the reserve requirement, the less money banks have to lend.
   3. Engage in open-market operations – it can buy or sell government securities – If the Fed buys the government securities, individual investors must turn to private ventures, which puts more money into the economy. If the Fed sells government securities, investors buy them, which takes money out of the economy.