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How Our Laws Are Made

|| II. Congress ||

[Article I, Section 1](#), of the United States Constitution, provides that:

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

The Senate is composed of 100 Members—two from each state, regardless of population or area—elected by the people in accordance with the 17th Amendment to the Constitution. The [17th Amendment](#) changed the former constitutional method under which Senators were chosen by the respective state legislatures. A Senator must be at least 30 years of age, have been a citizen of the United States for nine years, and, when elected, be an inhabitant of the state for which the Senator is chosen. The term of office is six years and one-third of the total membership of the Senate is elected every second year. The terms of both Senators from a particular state are arranged so that they do not terminate at the same time. Of the two Senators from a state serving at the same time the one who was elected first—or if both were elected at the same time, the one elected for a full term—is referred to as the "senior" Senator from that state. The other is referred to as the "junior" Senator. If a Senator dies or resigns during the term, the governor of the state must call a special election unless the state legislature has authorized the governor to appoint a successor until the next election, at which time a successor is elected for the balance of the term. Most of the state legislatures have granted their governors the power of appointment.

Each Senator has one vote.

As constituted in the 110th Congress, the House of Representatives is composed of 435 Members elected every two years from among the 50 states, apportioned to their total populations. The permanent number of 435 was established by federal law following the Thirteenth Decennial Census in 1910, in accordance with [Article I, Section 2](#), of the Constitution. This number was increased temporarily to 437 for the 87th Congress to provide for one Representative each for Alaska and Hawaii. The Constitution limits the number of Representatives to not more than one for every 30,000 of population. Under a former apportionment in one state, a particular Representative represented more than 900,000 constituents, while another in the same state was elected from a district having a population of only 175,000. The Supreme Court has since held unconstitutional a Missouri statute permitting a maximum population variance of 3.1 percent from mathematical equality. The Court ruled in *Kirkpatrick v. Preisler*, 394 U.S. 526 (1969), that the variances among the districts were not unavoidable and, therefore, were invalid. That decision was an interpretation of the Court's earlier ruling in *Wesberry v. Sanders*, 376 U.S. 1 (1964), that the Constitution requires that "as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's."

A law enacted in 1967 abolished all "at-large" elections except in those less populous states entitled to only one Representative. An "at-large" election is one in which a Representative is elected by the voters of the entire state rather than by the voters in a congressional district within the state.

A Representative must be at least 25 years of age, have been a citizen of the United States for seven years, and, when elected, be an inhabitant of the state in which the Representative is chosen. Unlike the Senate where a successor may be appointed by a governor when a vacancy occurs during a term, if a Representative dies or resigns during the term, the executive authority of the state must call a special election pursuant to state law for the choosing of a successor to serve for the unexpired portion of the term.

Each Representative has one vote.

In addition to the Representatives from each of the States, a Resident Commissioner from the Commonwealth of Puerto Rico and Delegates from the District of Columbia, American Samoa, Guam, and the Virgin Islands are elected pursuant to federal law. The Resident Commissioner, elected for a four-year term, and the Delegates, elected for two-year terms, have most of the prerogatives of Representatives including the right to vote in committees to which they are elected, the right to vote in the Committee of the Whole (subject to an automatic revote in the House whenever a recorded vote has been decided by a margin within which the votes cast by the Delegates and the Resident Commissioner have been decisive), and the right to preside over the Committee of the Whole. However, the Resident Commissioner and the Delegates do not have the right to vote on matters before the House.

Under the provisions of [Section 2 of the 20th Amendment](#) to the Constitution, Congress must assemble at least once every year, at noon on the third day of January, unless by law they appoint a different day.

A Congress lasts for two years, commencing in January of the year following the biennial election of Members. A Congress is divided into two regular sessions.

The Constitution authorizes each House to determine the rules of its proceedings. Pursuant to that authority, the House of Representatives adopts its rules anew each Congress, ordinarily on the opening day of the first session. The Senate considers itself a continuing body and operates under continuous standing rules that it amends from time to time.

Unlike some other parliamentary bodies, both the Senate and the House of Representatives have equal legislative functions and powers with certain exceptions. For example, the Constitution provides that only the House of Representatives may originate revenue bills. By tradition, the House also originates appropriation bills. As both bodies have equal legislative powers, the designation of one as the "upper" House and the other as the "lower" House is not applicable.

The chief function of Congress is the making of laws. In addition, the Senate has the function of advising and consenting to treaties and to certain nominations by the President. Under the [25th Amendment](#) to the Constitution, a vote in each House is required to confirm the President's

nomination for Vice-President when there is a vacancy in that office. In the matter of impeachments, the House of Representatives presents the charges-a function similar to that of a grand jury-and the Senate sits as a court to try the impeachment. No impeached person may be removed without a two-thirds vote of those Senators voting, a quorum being present. The Congress under the Constitution and by statute also plays a role in presidential elections. Both Houses meet in joint session on the sixth day of January following a presidential election, unless by law they appoint a different day, to count the electoral votes. If no candidate receives a majority of the total electoral votes, the House of Representatives, each state delegation having one vote, chooses the President from among the three candidates having the largest number of electoral votes. The Senate, each Senator having one vote, chooses the Vice President from the two candidates having the largest number of votes for that office.