



BASIC » TRAINING

PARLIAMENTARY PROCESS,
FACTS, AND STRATEGIES

The Final Steps: Enrollment, Enactment, and Vetoes

After legislation passes both Houses of Congress in the same form, the Constitution provides that it be “presented” to the President for his signature. The process of preparing the bill, known as “enrollment,” ensures that the version given to the President for signing is the true and correct representation of the legislation passed by Congress. Upon presentment, the President may either sign the bill, enacting it into law, or refuse to sign it, vetoing the legislation.

ENROLLMENT

After a bill or joint resolution passes both the House and Senate and reaches its final form, the chamber that the legislation originated in **enrolls** the bill for presentment to the President for either his signature or veto. The enrollment process includes both the careful examination of the official text to ensure it is the exact text passed by both houses, and the printing of the dually -adopted final version on parchment paper. In the House, the Clerk oversees this process; in the Senate, the Secretary of the Senate sustains the complementary role.

The enrolled bill is then given to the Speaker of the House and President of the Senate for their signatures, which indicate that the enrolled bill is the text that passed each house. If either official is unavailable, the enrolled bill may be signed by either the Speaker pro tempore in the House, or, in the Senate, by either the President pro tempore or the chamber’s currently presiding officer.

After officials from the House and Senate sign the document, the bill is

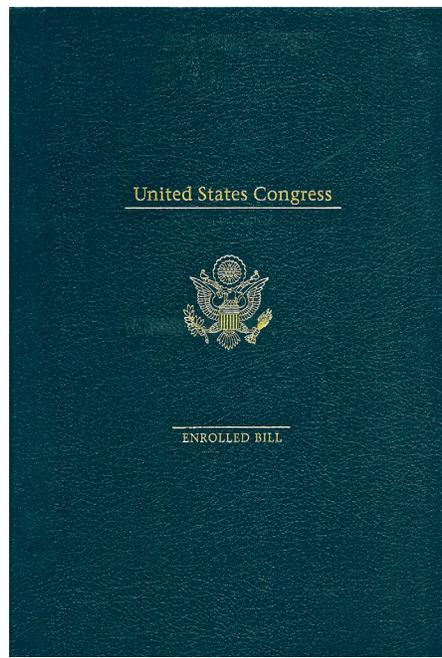


Figure 1. Legislation is bound in leather once enrolled.

presented to the President for his signature. Presentment need not occur immediately, and the legislative branch may delay presentment for either political or convenience reasons.

Enrollment Corrections. If an error occurs in the enrolling process itself, both

houses must pass a concurrent resolution requesting that the President return the enrolled bill prior to enactment.

The more commonly arising issue, however, occurs when the bill is correctly enrolled by the Clerk and the Secretary, yet is done so with an error in the underlying legislative language passed by both Houses. In this case, both Houses must pass a concurrent resolution directing the enrolling official (either the Clerk or the Secretary, as the case may be) to “correct” the enrollment of the bill. When an error is truly technical, these enrollment correction resolutions often pass by unanimous consent. There have been cases, however, where the process has been used to make more substantive changes in bills that have already passed both chambers.

ENACTMENT

Upon presentment, the clock begins ticking for the President to sign or veto the bill. If the President signs the bill within the 10-day (excluding Sundays) period



POCKET VETOS

If Congress is otherwise unavailable to receive a veto message, such as after having adjourned sine die, and the President does not sign the bill within the Constitutional 10-day period, the bill does not become law. This is commonly referred to as a **pocket veto**.

Pocket vetoes have been controversial. Because they hinge on the “availability” of Congress to receive the veto message, the executive and legislative branches have sometimes differed over what constitutes the “availability” of Congress. The courts have generally held that even when Congress is in an intersession recess in excess of three days (as distinguished from the end of a Congressional session), if the adjournment resolution “makes arrangements” for the Congress to receive a Presidential message — for instance, authorizing the Clerk of the House or Secretary of the Senate to receive such messages — then a pocket veto is not available because Congress can receive the veto message.

This arrangement ability has become more important since September 11, 2001, as Congress routinely provides the Clerk the authority to receive messages and the leaders of the House and Senate the ability to call back Members under exigent circumstances in adjournment resolutions. This reduces the periods in which Congress is not available.

As a result, the executive branch has started employing a strategy called **protective return**, which serves as a pocket veto packaged like a return veto, as a memorandum highlighting the President’s objections is also included.

In these cases, the House usually treats the veto as a return veto, and considers it according to the standard rules for return vetoes.

The Final Steps *continued*

prescribed by the Constitution, the bill is immediately **enacted** into law upon his signature. After the President signs the bill, it is transmitted to the National Archives where the Archivist of the United States assigns the enacted bill a public law number.

If he does not sign the bill, Congress is otherwise available to receive a veto message (i.e. has not adjourned sine die), and the President does not return the bill to the legislative branch, it likewise becomes law without his signature.

VETOS

If the President chooses not to sign the bill, he must return the bill to the originating House. Called a **return veto**, it is accompanied by a veto message explaining his objections to the

legislation. If Congress is available to receive a veto message and the President does not sign the bill, it would become law without his signature.

CONSIDERATION OF A VETO MESSAGE IN THE HOUSE

Upon receipt of a veto message, the Speaker lays the it before the House on the same legislative day. The Constitution requires that the House proceed to reconsideration of the bill, although House precedents provide that the usual motions available in the House are still at hand. They include:

- » Motion to table;
- » Motion to refer to a committee;
- » Motion to postpone to a day certain.

If a motion to table is adopted, no further action on the veto message occurs. Adoption of either of the other motions delays consideration of the veto message until a future time.

The House considers veto messages under the one-hour rule, meaning that the chair of the relevant committee or subcommittee is recognized for a full hour of debate on the measure, although tradition dictates that they yield ½ of the time to an opponent. A veto of a bill may be overridden if two-thirds of the Members present vote to pass the bill, the objections of the President notwithstanding. If the originating house votes to override the President’s veto, it is then presented to the other chamber for its consideration. If two-thirds of the Members of that house also vote in the affirmative, then the veto is overridden, and the bill becomes law. ▲

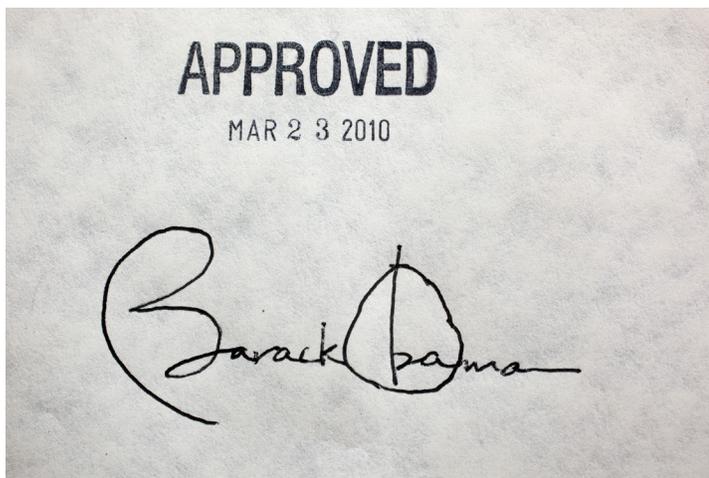


Figure 2. President Obama’s signature on the health insurance reform bill, which was passed on March 23, 2010. (Official White House photo by Chuck Kennedy.)