

Chapter 44

Reading, Passage, and Enactment

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Research References

U.S. Const. art. I, § 7
4 Hinds §§ 3364-3481
7 Cannon §§ 1027-1083
Deschler Ch 24 §§ 11-16
Manual §§ 104, 105, 396, 397, 497, 498, 573-577, 941-944

§ 1. In General; Stages in Passage

The various steps in the usual legislative process begin with the introduction of a measure and include its referral to committee, committee consideration, reporting of the measure to the House, and consideration and debate in the House or the Committee of the Whole (where the first and second readings occur). These matters are covered elsewhere in this work. See INTRODUCTION AND REFERRAL; COMMITTEES; COMMITTEES OF THE WHOLE; and CONSIDERATION AND DEBATE.

The following checklist describes the possible steps beginning with the ordering of the previous question on passage of a bill through its enactment into law:

- Previous question ordered on bill and all amendments to final passage.
Note: When the previous question is ordered, debate is terminated and the House then votes first on any pending

amendment or amendments, including any reported from the Committee of the Whole. If the previous question is not ordered, the bill and any amendments thereto are open to further debate and possible further amendment. See PREVIOUS QUESTION.

- Demand for separate vote on amendments adopted in the Committee of the Whole.

Note: A demand for a separate vote in the House on an amendment adopted in the Committee of the Whole is in order following the Speaker's announcement that the previous question has been ordered, but such separate votes are not actually taken until after the House votes on any remaining amendments en bloc. *Manual* § 337; Deschler Ch 27 § 36.20. A Member cannot demand a separate vote on an amendment *rejected* in the Committee of the Whole. Deschler Ch 27 § 36.12.
- Question put *en gros* on those amendments on which a separate vote was not demanded.
- Question put on each amendment on which a separate vote was demanded.

Note: Votes are normally taken in the order in which the amendment appears in the bill. However, if amendments have been considered under a special order of business prescribing the order for their consideration, the amendments are voted on in the order in which they were considered in Committee of the Whole. *Manual* § 337; see also AMENDMENTS.
- Question put on engrossment and third reading (third reading by title only).

Note: This is normally a pro forma question. Engrossment is the printing of the measure on special paper, and the "third reading" requires merely a reading of the title. *Manual* § 941. The question is ordinarily approved by voice vote. However, a record vote may be ordered, and a negative vote rejects the bill. On Senate bills the question is put on the third reading but not engrossment because such bills are engrossed by the Senate. For engrossment generally, see § 6, *infra*. Any amendment to a preamble of a joint resolution should be made after engrossment and pending the third reading. *Manual* § 414.
- Motion to recommit offered.

Note: A Member opposed to the bill may offer a motion to recommit the measure to committee. A Member may offer a simple motion to recommit (which, if adopted, ends further consideration of the bill) or a motion to recommit with instructions. *Manual* §§ 1001, 1002. The motion may instruct the committee to report the bill back

to the House “forthwith” with an amendment. Only one proper motion may be considered. See REFER AND RECOMMIT.

- Question put on ordering the previous question on motion to recommit.
Note: Amendments to the motion cannot be offered if the previous question on the motion has been ordered. *Manual* §§ 916, 917, 1001, 1002. This comports with the House rule giving precedence to the motion for the previous question over the motion to amend. *Manual* § 911. If the previous question is rejected, and an amendment is offered, the previous question is again moved on the amendment and the motion (as amended).
- Question put on motion to recommit (as amended or not).
Note: If recommitted with instructions, the bill is reported back “forthwith” with amendment(s), the amendment(s) are again put to a vote, and the vote recurs on engrossment and third reading.
- Question put on passage of bill.
Note: As a general rule, after a bill is passed there can be no further alteration of it. The Clerk may be authorized by unanimous consent to make technical and conforming (or even substantive) changes in the engrossment. *Manual* § 500.
- Amendment to title of bill.
Note: An amendment to the title is not in order until after the bill itself is passed and is not debatable. If the committee reported the bill to the House with an amendment to the title, the amendment to the title is adopted by unanimous consent initiated by the Chair. *Manual* § 922.
- Motion to reconsider.
Note: The motion to reconsider may be used to revisit passage or a step leading thereto. See RECONSIDERATION. While a motion to reconsider is pending, the bill cannot be sent to the Senate.
- Motion or unanimous-consent request to lay the motion to reconsider on the table.
Note: The pro forma motion or unanimous-consent request to table the motion to reconsider is used to preclude a subsequent motion to reconsider, and it is the accepted parliamentary mode of making the vote in question final. In practice, the two motions often are made simultaneously. 8 Cannon § 2784. The Speaker often performs this perfunctory role, as when declaring, after the announcement of a vote, “without objection, a motion to re-

consider is laid on the table.” Deschler Ch 23 § 34. See generally RECONSIDERATION.

- Transmittal of bill to Senate.

Note: After passage of a bill in the House, the engrossment is attested by the Clerk of the House and transmitted to the Senate.

- Consideration of bill by Senate.

- Return of bill to House.

Note: If a House bill is passed by the Senate without amendment, the Senate messages the bill back to the House, where it is enrolled under the supervision of the Clerk. *Manual* § 648; see § 10, *infra*. If a House bill is returned with amendment, such amendment is disposed of by unanimous consent, by motion to suspend the rules, or by a special order of business. However, a Senate amendment not requiring consideration in the Committee of the Whole is privileged, as is a motion to disagree to the Senate amendment and request or agree to a conference with the Senate (if offered by direction of relevant committees). On very rare occasions, the Speaker has referred a bill with Senate amendments to the House committee having jurisdiction. *Manual* § 816. For an explanation of House procedure for consideration of Senate amendments, see SENATE BILLS; AMENDMENTS BETWEEN THE HOUSES and *Manual* §§ 528-528d. For a discussion of conferences, see CONFERENCES BETWEEN THE HOUSES and *Manual* §§ 530-559.

- Submission of conference report.

Note: The committee of conference having met, a report embodying their recommendation is submitted together with a joint explanatory statement of the managers from each House.

- Adoption of conference report.

Note: Approval by the House and Senate of the conference report and mutual agreement to any amendments in disagreement constitute final congressional approval of the bill. The two Houses act seriatim on the report, the one agreeing to the conference normally acting first. However, a conference report ordinarily must be acted on as a whole; that is, either adopted or rejected in its entirety. If the conferees disagree on certain numbered amendments, the amendments are submitted to each Chamber individually and acted upon separately. Every amendment must be agreed to in identical form by both

Houses before congressional action on the bill is complete. See CONFERENCES BETWEEN THE HOUSES.

- Enrollment of bill.

Note: A bill that is finally passed by both Houses is enrolled by the House in which it originated; that is, it is printed on special paper (*i.e.*, parchment; 1 USC § 107) under the supervision of an enrolling clerk. After its accuracy has been approved by the Clerk, an enrolled bill is presented to the House and Senate, where it is signed by the Speaker and the President of the Senate, respectively. *Manual* § 648; see § 10, *infra*.

- Delivery of bill to the President for approval or veto.

Note: An enrolled bill, having been signed by the Speaker and the President of the Senate, is delivered to the White House for Presidential approval. The President has 10 days (excluding Sundays) in which to sign the bill or veto it by returning it to the originating House with any objections. The bill may also be subject to a “pocket veto” if Congress, by final *sine die* adjournment, has prevented its return. See VETO OF BILLS.

- Passage of bill over Presidential veto.

Note: A veto override requires a vote of two-thirds by the yeas and nays, a quorum being present, in each Chamber. If a vote to override a veto succeeds in the originating House, the measure is sent to the second House. If the veto is overridden there, the bill becomes law without the President’s signature. *Manual* § 109.

- Deposit of measure in National Archives.

Note: When an enrolled bill is signed by the President or enacted over a veto, it becomes a public law and is sent to the National Archives and published in *Statutes at Large*, an annual volume that compiles all bills that become law. An Act passed over the President’s veto is transmitted to the Archivist by the House last acting on it.

§ 2. Readings

The reading of a bill is an essential step toward its passage. Deschler Ch 24 § 11. The First Congress adopted a rule requiring three separate and distinct readings of each bill brought before the House. 4 Hinds § 3391.

Clause 8 of rule XVI provides that a bill or joint resolution must be read three times. The first reading is by title; the second reading for amendment in the Committee of the Whole is by paragraph or section; and the third reading is by title. *Manual* § 941. The second, or full reading, is pursu-

ant to clause 5 of rule XVIII. The three readings referred to in rule XVI are to be distinguished from the procedures involved in reading a bill for amendment. See AMENDMENTS. In practical terms a “first reading” in the Committee of the Whole contemplated in rule XVIII is in full, but this reading ordinarily is dispensed with by special order of business. The reading for amendment by paragraphs or sections is the second actual reading in the Committee of the Whole.

For a discussion of reading papers in debate, see CONSIDERATION AND DEBATE.

§ 3. — First Reading

Under clause 8 of rule XVI, the first reading of a bill in the House is in full. *Manual* § 941. The first reading of a bill in the Committee of the Whole is in full under clause 5 of rule XVIII. *Manual* § 978. Formerly, a bill was read the first time by title at the time of its introduction before the House. However, since 1890 all bills have been introduced by filing them with the Clerk (placing them in the bill “hopper” at the rostrum). 4 Hinds § 3391. Today, the titles of all bills introduced are printed in the Journal and the *Congressional Record*, thus fulfilling the purpose of the former first-reading rule. *Manual* § 942.

§ 4. — Second Reading

Generally

The second reading in the Committee of the Whole is required by clause 5 of rule XVIII. That reading is normally by paragraph or section. *Manual* § 980. Clause 8 of rule XVI has no provision for a second reading in the House. Therefore, in the House, bills are considered read a second time when they are taken up for action.

The Clerk, and not the chair of the Committee of the Whole, reads bills the second time. *Manual* § 428. If consideration of the bill is not completed on the day it is called up, the bill is read by title when it is called up on subsequent days.

Demanding a Reading in Full; Dispensing with Readings

Although clause 5(a) of rule XVIII requires a full reading of a bill (which may be demanded by any Member) before general debate, in practice verbatim readings are usually dispensed with by unanimous consent, by suspension of the rules, or by special order of business. Deschler Ch 24 § 11; Deschler Ch 27 § 7.1; *Manual* § 942.

It has been held that a motion to dispense with the reading in full is not in order. 8 Cannon §§ 2335, 2436. The Committee of the Whole may dispense with the reading by motion if the motion is made privileged, as by a special order of business. Deschler Ch 24 § 11.1 (note).

Measures Subject to Reading in Full

Clause 8 of rule XVI requires a reading “in full” only of “bills and joint resolutions.” However, the rule traditionally has been extended to privileged concurrent and simple resolutions as well. Such resolutions include adjournment resolutions, questions of privilege, and special orders of business reported by the Committee on Rules. See, *e.g.*, *Manual* § 713. A concurrent or simple resolution called up by unanimous consent is not read in full; rather, only the title is read. When a measure is read in full, it is the text as originally introduced that is read. Proposed committee amendments, including those in the nature of a substitute, are not included in this reading. Deschler Ch 24 § 11. Even when a substitute amendment has been reported to the House, it is the introduced bill that is read. 7 Cannon § 1054.

Interruption of Reading

The reading of a bill may be interrupted by the presentation of a matter of higher privilege, such as the reception of a message, a question of privilege, or the arrival of the time designated for adjournment. See 5 Hinds § 6448 (reading interrupted by presentation of conference report).

§ 5. — Third Reading

The third reading of a bill under clause 8 of rule XVI is by title only and comes after the order for engrossment and before the question on passage of the bill is put. *Manual* § 941. The Speaker states: “The question is on the engrossment and third reading of the bill.” This is a pro forma question that is routinely approved by voice vote just before the measure itself is put to a vote. However, a record vote may be ordered on the question of engrossment and third reading. If the question is decided in the negative, the bill is considered rejected. 4 Hinds § 3420. If the third reading is omitted and the bill passes, the defect can be rectified by reconsideration. 4 Hinds § 3406.

At one time a Member could demand a reading *in full* of the engrossment, but this procedure was stricken from the rules in 1965. Deschler Ch 24 § 11.

§ 6. Engrossment of House-passed Bills

After a bill has passed the House, the Clerk prepares a certified copy for transmission to the Senate. This copy is the official copy of the measure as passed by the House, and is referred to as the engrossment. That term also refers to the process by which a bill is engrossed; that is, printed on special paper under the supervision of the Clerk. House-passed measures or House amendments to Senate measures are engrossed on distinctive blue paper. The Clerk attests to the engrossment, and the Clerk's signature gives rise to the presumption that the bill was correctly engrossed. 4 Hinds § 3428. Senate bills and amendments are engrossed by that body on white paper and bear the signature of the Secretary of the Senate. A limited number of the blue and white engrossments are printed for official use of the House and the Senate and are the prints used by conferees in working out their agreements.

The engrossment of a House-passed bill is under the control of the House, not of the Committee of the Whole. Thus, a unanimous-consent request relating to the engrossment of a bill is properly made in the House following the passage of the bill and is not in order in the Committee of the Whole. Deschler Ch 24 § 12.2.

§ 7. — Correcting Errors in Engrossment**Before Transmittal of Bill to the Senate**

Before the House has messaged its legislative action to the Senate, the House may, by unanimous consent, authorize the Clerk to make changes in the engrossment of a House-passed bill. This procedure may be used, for example, to direct the Clerk to correct or change the table of contents, to amend or strike cross references, or to change section numbers and make other technical changes. Deschler Ch 24 §§ 12.10, 12.12. By unanimous consent the Clerk also may be authorized to make designated substantive changes in the engrossment of a bill passed by the House. However, the Chair may require that the changes be read by the Clerk. 99-1, Feb. 27, 1985, p 3888; 99-1, June 27, 1985, p 17875. In one instance, the House by unanimous consent authorized the Clerk to engross in its introduced form a bill recently passed in an amended form under suspension of the rules. 106-2, July 27, 2000, p 16607.

The engrossment of House amendments to Senate bills that have not been messaged to the Senate may likewise be corrected by unanimous consent, the Clerk being directed to make the necessary change. Deschler Ch 24 §§ 12.8, 12.9, 12.11. Thus, in one instance, by unanimous consent, the

Clerk was authorized to correct the engrossment of a House amendment to a Senate bill passed on the preceding day to reflect the adoption in Committee of the Whole of an amendment that was inadvertently not reported to the House. 94-1, May 7, 1975, p 13363. The same procedure has been used to correct the engrossment of a House amendment to a Senate bill by deleting a provision inadvertently included in the measure. 99-2, Oct. 9, 1986, p 30102.

After Transmittal of Bill to Senate

After a bill has been messaged to the Senate, the House must request that the Senate return the bill for correction. The House makes its request by resolution, which may also authorize the Clerk to reengross the bill with specified changes. Deschler Ch 24 § 12.5. A resolution in the House requesting the return of a bill of the Senate to correct an error made by the Clerk in preparing the engrossment of a House amendment was treated as a question of privilege under rule IX. *Manual* § 565; 3 Hinds § 2613.

Where both Houses have acted on the measure a concurrent resolution may effect changes in the final enrollment. See § 12, *infra*.

§ 8. — Correcting Printing Errors; “Star Prints”

An engrossment may be “star printed” (that is, reprinted with a star to indicate the reprinting) to rectify a typographical error made by the Government Printing Office (GPO). This procedure is designed to substitute a reprinted bill and to show the exact form in which the bill was actually passed. Deschler Ch 24 § 12.1.

The star print procedure is appropriate to correct GPO printing errors in a bill until both Houses have acted on the measure. Thereafter, a concurrent resolution to correct an enrollment is used to correct printing errors in a bill. Deschler Ch 24 § 14.7.

§ 9. Transmittal of Bills Between the Houses

A bill, having passed one House and having been engrossed and attested, is transmitted to the other House by message. Deschler Ch 24 § 12.1. One House may message to the other a request to return a bill for the correction of errors or otherwise. *Manual* § 565; 3 Hinds § 2613; 4 Hinds §§ 3460-3465. A request by the Senate for the return of a bill, if alleging an error in preparation, is treated as privileged in the House. However, if not alleging error but rather seeking a substantive change, such a request would require unanimous consent. *Manual* § 565. The question is put to the House without debate. 95-1, Aug. 3, 1977, p 26538. The House may by

unanimous consent agree to a request of the Senate for the return of a Senate bill, even where the bill has been referred to a House committee. 91-1, July 10, 1969, p 19095.

§ 10. Enrollment of Bills Passed by Both Houses

When a bill or joint resolution has passed both Houses, the papers are delivered to the House that originated the measure, and a final version—called the enrolled bill—is prepared. If the bill originated in the House, it is enrolled under the supervision of the Clerk. *Manual* § 648. The enrollment is printed on distinctive paper under special supervision of the enrolling clerks of the House or the Senate. 1 USC § 107; Deschler Ch 24 § 14. This printing requirement may be waived by the enactment of a joint resolution, or, during the last six days of the session, by the adoption of a concurrent resolution. 1 USC § 106; *Manual* § 574. The enrolled bill is signed by the presiding officers of the House and the Senate and is delivered to the President for approval. See §§ 11-13, *infra*. If approved by the President, the measure is sent to the National Archives. 1 USC § 106a.

It has been held that the validity of an enrolled bill signed by the President cannot be questioned on account of the pendency of a motion to reconsider, the signing of the enrolled bill by the Speaker and Vice President being complete and unimpeachable evidence of its passage. See *Field v. Clark*, 143 U.S. 649 (1892).

§ 11. — Certification and Signing

Approval and Certification

A House-enrolled bill or joint resolution must be approved as to form and accuracy by the Clerk, although this requirement on rare occasions has been waived by unanimous consent. *Manual* § 648; 4 Hinds § 3452. In addition, House-enrolled bills are certified by the Clerk as having originated in the House. Senate enrollments are delivered to the House after similar examination and certification by the Secretary of the Senate. Deschler Ch 24 § 15.

Signing

Ordinarily, enrollments are signed first by the Speaker and then by the President of the Senate. 4 Hinds § 3429. In early Congresses the Speaker could not sign an enrolled bill in the absence of a quorum. 4 Hinds § 3458. Today, under clause 4 of rule I, the Speaker has standing authority to sign enrolled bills even if the House is not in session; and bills passed at one session may be signed by the Speaker at the next session. *Manual* § 624; 7 Cannon § 1075. The Committee of the Whole may rise informally without

motion to enable the Speaker to assume the Chair to lay an enrolled bill before the House. *Manual* § 625.

Signing by the Speaker Pro Tempore

A Speaker pro tempore elected by the House may sign enrolled bills. 2 Hinds § 1401. Under clause 8(b)(2) of rule I, the Speaker may appoint a Member to act as Speaker pro tempore only to sign enrolled bills for a specified period of time, subject to the approval of the House. However, a Member merely called to the Chair during the day or designated by the Speaker for a purpose other than to sign enrolled bills, may not exercise this function. 2 Hinds §§ 1399, 1401; 6 Cannon § 276.

§ 12. — Corrections in Enrollment

Generally; Authorizing Corrections Before Enrollment

The Clerk of the House may be authorized by concurrent resolution to make certain corrections in the enrollment of a House bill. 7 Cannon § 1068. The authorizing resolution may be agreed to by one House even before the bill to be corrected has passed the other House. In one instance the House agreed to a concurrent resolution correcting the enrollment of a joint resolution before the consideration of a conference report on that measure. 99-1, Dec. 11, 1985, pp 35957, 35958.

Corrections made in this manner often involve nothing more than spelling errors or an error in the title of a bill. However, a concurrent resolution may authorize the Clerk to make extensive substantive changes. Deschler Ch 24 §§ 14.5-14.7.

Corrections in enrolled bills are normally made by the House that originated the bill, but the concurrent resolution authorizing the changes may originate in either House. Thus, the House may originate a concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of a Senate bill. Deschler Ch 24 § 14.18.

Authorizing Corrections After Enrollment

The correction of a bill, even after its enrollment, may be ordered by concurrent resolution of the two Houses. 4 Hinds § 3451; 7 Cannon § 1041. If the enrolled bill has not been signed by the respective presiding officers, the resolution may simply direct the Clerk to reenroll the bill with a correction. Deschler Ch 24 § 14.14. If the enrolled bill has been so signed, the two Houses by concurrent action may authorize the rescission or cancellation of the signatures and a reenrollment. 4 Hinds §§ 3453-3459; Deschler Ch 24 § 14.13. In the same way, signatures may be canceled on a bill prematurely enrolled. 4 Hinds § 3454; Deschler Ch 24 §§ 15.12, 15.13. The res-

olution may not only rescind the action of the Speaker and President of the Senate in signing the bill but also may direct the Clerk to reenroll the bill with certain changes or to provide for its return to the Senate. Deschler Ch 24 §§ 14.9-14.11.

Correction or Recall of Bills Delivered to the President

Corrections or changes in enrolled bills that have been delivered to the White House but not signed into law traditionally have been effected by a concurrent resolution, considered by unanimous consent, that requests the return of the bill and vacates the signatures of the Speaker and the President of the Senate. The resolution may direct a reenrollment with corrections by the Clerk of the House or the Secretary of the Senate, as appropriate. 4 Hinds §§ 3507, 3508; Deschler Ch 24 §§ 16.1-16.4. Bills retrieved and corrected under this procedure are resubmitted to the President for approval. However, in one instance, a concurrent resolution was used to request the recall of a bill from the White House, to rescind the signatures of the two presiding officers and to postpone the bill indefinitely. Deschler Ch 24 § 16.5.

The use of concurrent resolutions to recall a bill to correct an error is appropriate only with respect to bills that have not been signed, or are presumed not to have been signed, by the President. 4 Hinds § 3507 (note). Once a bill has been signed, it becomes law; and changes in it can be effected only by amending the measure pursuant to the passage of a bill or joint resolution. Thus, where the President signed a bill from which a section was inadvertently omitted during enrollment, the Congress immediately passed a joint resolution amending the law to insert the omitted section. Deschler Ch 24 § 14.19.

Consideration of Resolution

Concurrent resolutions making corrections in an enrolled bill are not privileged for consideration and are normally considered by unanimous consent. See, *e.g.*, Deschler Ch 24 § 14.5. However, they also may be considered under suspension of the rules (93-2, Aug. 5, 1974, p 26796), or under a special order of business reported from the Committee on Rules (93-2, Dec. 13, 1974, p 39596). Such a resolution may also be taken up pursuant to a special order of business from the Committee on Rules “hereby” adopting that resolution. *Manual* § 855.

§ 13. Delivery of Measures to the President

Bills

The Constitution requires that every bill that passes the House and the Senate be presented to the President of the United States for approval. U.S. Const. art. I, § 7. In early Congresses a joint committee took enrolled bills to the President. 4 Hinds § 3432. However, in the later practice, the Clerk of the House or the Secretary of the Senate has responsibility for the enrollment of bills and for presenting the bills from that House to the President. Such presentation is recorded in the Journal. *Manual* § 577.

Enrolled bills pending at the close of a session have at the next session of the same Congress been ordered to be presented as if no adjournment had taken place. 4 Hinds §§ 3487, 3488. Enrolled bills signed by the presiding officers at one session have been sent to the President and approved at the next session of the same Congress. 4 Hinds § 3486. Bills enrolled in one Congress have been presented to the President and been signed by the President after the convening of the next Congress. *Manual* § 577.

Joint Resolutions

A joint resolution is a bill so far as the processes of Congress are concerned, with the exception of joint resolutions proposing amendments to the Constitution. 4 Hinds § 3375. Joint resolutions proposing amendments to the Constitution require a two-thirds vote to pass and are not sent to the President for approval. *Manual* § 397; 4 Hinds § 3483; 5 Hinds § 7040. Such joint resolutions, after passage by both Houses, are delivered to the Archivist. 1 USC § 106b.

Concurrent Resolutions

It has been the uniform practice of the Congress, since the organization of the government, not to present concurrent resolutions to the President for approval and to avoid incorporating in such resolutions any matter of strict legislation requiring such presentation. Concurrent resolutions have been used merely to express the sense of Congress on a given subject, to adjourn for longer than three days, or to accomplish some purpose in which both Houses have a common interest but with which the President has no concern. Such resolutions have “never embraced legislative provisions proper and hence have never been deemed to require executive approval.” *Manual* § 396; 4 Hinds § 3483.