

Drafting Legislation

Although only members of Congress can introduce legislation, anyone can draft it. Most of the time, Congressional staff drafts legislation, though it's not uncommon for interest groups, activists, or the executive branch to put the words on paper. Many members take advantage of the attorneys and expert drafters at the nonpartisan Office of Legislative Counsel to help craft bills and amendments. Over the years, the length of bills has dramatically increased, while the number of bills has sharply decreased.

Introduce the Proposed Legislation

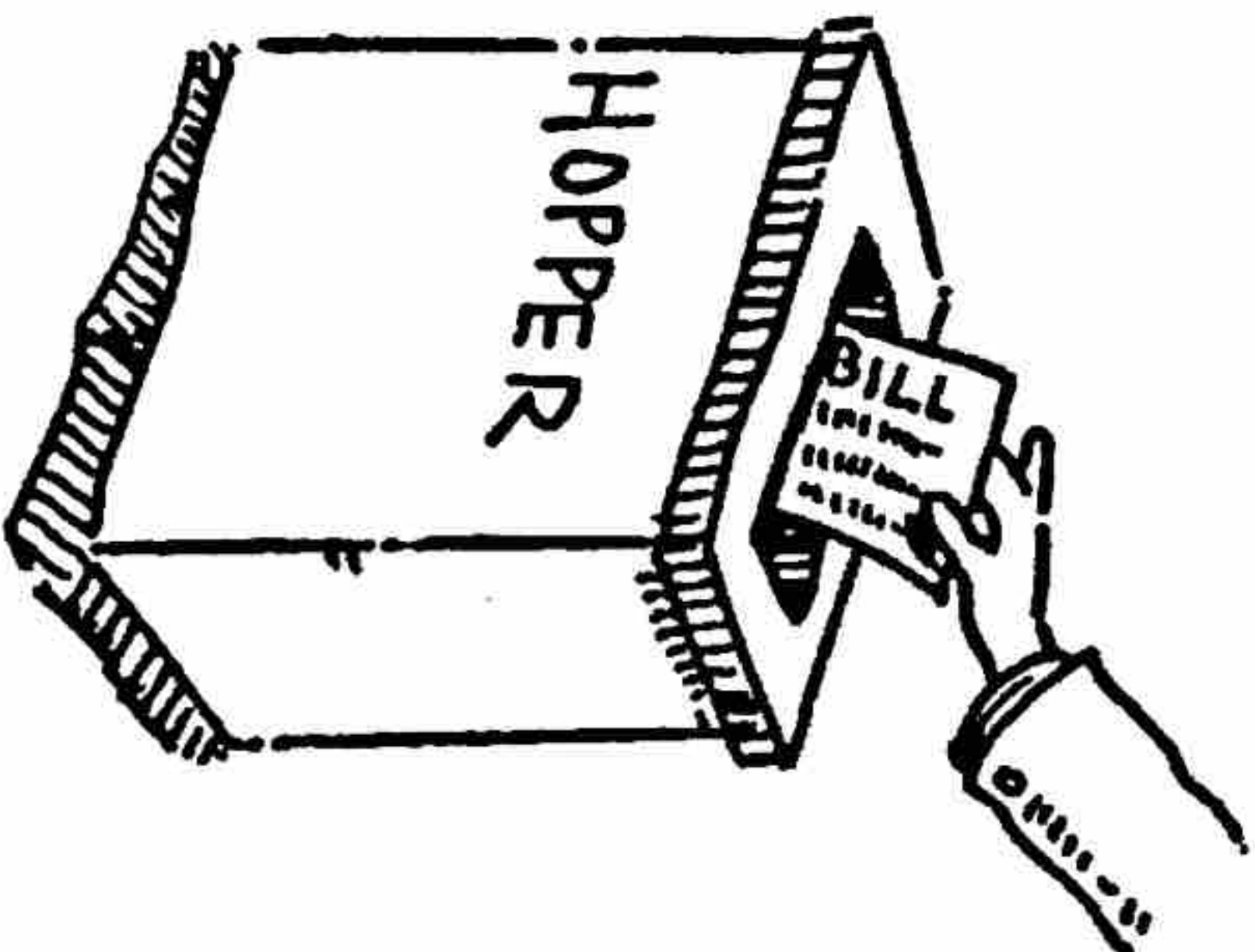
Except for revenue or tax bills, which can come only from the House of Representatives, any member of the House or Senate can introduce a bill or proposed legislation. We call the member who introduces the bill the *sponsor of the bill*. A bill may have numerous cosponsors. Sometimes, a representative and a senator will sponsor identical bills in their own houses.

Who thinks up and writes these bills? The executive branch (the president's advisors and staff) writes many of the bills. Members of Congress, usually through their staffs, also write legislation. Commonly, an *interest group* (an organized group of people who feel strongly about an issue) that wants a particular law passed will work with the congressional staff to introduce a bill.

In the House of Representatives, the sponsor of the bill introduces the legislation by dropping the bill into the *hopper*, which is the box on the House clerk's desk meant to hold newly proposed legislation. The *House clerk* is responsible for keeping track of all proposed legislation.

In the Senate, the *presiding officer* (the senator in charge of the Senate when the bill is introduced) must recognize a sponsor of a bill so that person can introduce the bill.

Once the bill is recognized, it is assigned a number and the prefix "HR" (if it came from the House) or "S" (if it came from the Senate). The sponsor's name is also written on the bill. The bill is then sent to the Government Printing Office, where copies are made for the other members.



Committee Referral

Once a bill has been introduced and drafted, it is assigned a number and referred to the appropriate committee for review. The proper committee is determined by the content of the bill; the committee most relevant to the subject matter receives jurisdiction.

As mentioned earlier, Congress considers thousands of bills during each session. Because it is impossible for each Congressperson to become an expert on the issues concerning each introduced bill, *standing committees* study the sponsored legislation. Standing committees are small groups of legislators who have specialized areas of knowledge. These permanent committees decide whether the bill should be presented to the full chamber.

The committee system allows Congress to research an area of public policy and hear from interested parties, and it allows committee members to become knowledgeable on important topics so they can share this knowledge with the rest of Congress. The committees serve as minilegislatures, performing the task of investigating and debating bills that, because of lack of time, would never be considered by the full chamber. As mentioned, party leaders decide which members will serve on a particular committee. Their decision is based, in part, on the expertise and seniority of the member. Most House members only serve on one committee; all senators serve on several.

The following table lists the standing committees in the Senate and in the House of Representatives. The House has 20 standing committees, and the Senate has 16. Notice that both chambers have standing committees in some of the same areas. That's because these are important areas, so they see a lot of proposed legislation.

①

②

House of Representatives Standing Committees

Senate Standing Committees

- | | |
|---------------------------------------|--------------------------------------------|
| 1. Agriculture | 1. Agriculture, Nutrition, and Forestry |
| 2. Appropriations | 2. Appropriations |
| 3. Armed Services | 3. Armed Services |
| 4. Budget | 4. Banking, Housing, and Urban Affairs |
| 5. Education and the Workforce | 5. Budget |
| 6. Energy and Commerce | 6. Commerce, Science, and Transportation |
| 7. Financial Services | 7. Energy and Natural Resources |
| 8. Government Reform | 8. Environment and Public Works |
| 9. House Administration | 9. Finance |
| 10. International Relations | 10. Foreign Relations |
| 11. Judiciary | 11. Governmental Affairs |
| 12. Resources | 12. Judiciary |
| 13. Rules | 13. Health, Education, Labor, and Pensions |
| 14. Science | 14. Rules and Administration |
| 15. Small Business | 15. Small Business |
| 16. Standards of Official Conduct | 16. Veterans' Affairs |
| 17. Transportation and Infrastructure | |
| 18. Veterans' Affairs | |
| 19. Ways and Means | |
| 20. Intelligence | |

Committee Consideration

The large majority of bills that are assigned to a committee languish without receiving any consideration and are quickly forgotten. For the few bills that are acted upon, the committee chairman will usually assign it to a subcommittee for further consideration. Subcommittees are where the bulk of legislative crafting takes place.

The Importance of Hearings

If the subcommittee decides to act, the first thing it does is hold hearings. Every year, Congressional committees and subcommittees hold thousands of hearings, with some receiving more attention than others. Hearings are held for several reasons:

- To explore the need for legislation
- To allow members to make their point of view known
- To build support and create a record for the legislation
- To attract media attention to the issue
- To give the chairman a forum to increase public exposure

The ranking members of the subcommittee call witnesses to testify on the pending legislation. This can include anyone from the sponsor of the bill to lobbyists, experts, other federal officials, ordinary citizens affected by the legislation, and even celebrities.

In most instances, the format doesn't vary much. Witnesses read a prepared statement, and then each member is given an allotment of time (usually five minutes) to ask the witness questions. If the subcommittee chairman is opposed to the bill but doesn't want to publicly come out against it, he may hold an endless number of hearings as a way of slowly killing it without arousing suspicion among the public.

Committees and subcommittees are required by law to publish their hearing schedule a week in advance in local papers so that witnesses, the press, and the public are given appropriate time to prepare. While most hearings take place on Capitol Hill, sometimes committees conduct hearings in parts of the country where area residents will be particularly affected by the proposed legislation. It's not unusual for agriculture hearings to take place in midwestern states and for dairy-related hearings to be held in Wisconsin.

The Markup Phase

Once hearings have been completed, the bill enters the markup phase. During markup, subcommittee members debate the language of the bill, offer amendments, and vote on a final bill.

After markup, the bill is referred to the entire committee, where several things can occur. The committee may accept the recommendation, send it back to the subcommittee for further work, or conduct hearings and markups of its own. Usually, the committee accepts the findings of the subcommittee. Except for issues related to national security, committee and subcommittee markups must be conducted in public.

Report Submission

Once the bill has been written, the committee staff submits a report to all the members, explaining the contents of the bill. The committee report usually describes the purpose of the bill, contains the arguments for and against it, summarizes the hearings' findings, explains how the bill may impact existing law, and includes a perspective from affected executive branch agencies. According to House and Senate rules, a majority of committee members must be present for a bill to be voted out of committee.

With a growing number of bills running into the thousands of pages (and written in confusing legalese), the report has become an invaluable tool for members to evaluate a piece of legislation. The courts and regulatory agencies that have to interpret and implement the law also rely on the committee report to better understand the scope and meaning of the legislation. Committee members who oppose the final legislation are given the opportunity to file a supplemental report stating their views.

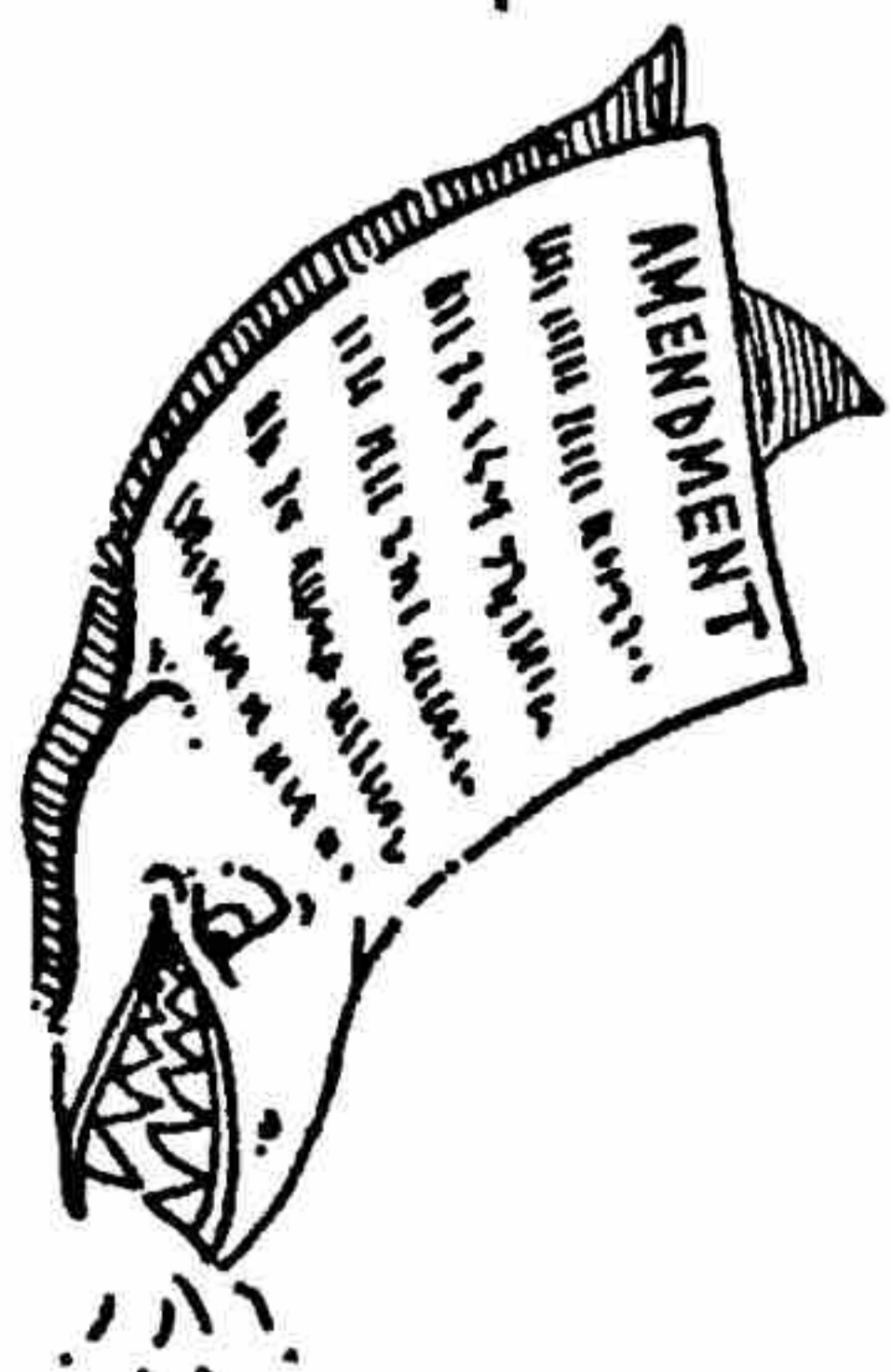
Debate the bill in the sponsoring member's chamber

The bill is now ready to be debated in the sponsoring member's chamber. Those for and against the bill will have a chance to explain their reasons and persuade others. Procedures for a floor debate in the two chambers are quite different. Because the membership of the House of Representatives is so large, the time for debate and amending the bills must be limited. Here, bills must first go through the *Rules Committee*, a standing committee that decides:

- when the full House will debate on the bill
- if the bill can be amended during the debate process
- how much time will be allowed for each representative to speak during the debate (often five minutes or less).

Because the Rules Committee controls the important parts of the law-making process, it is probably the most powerful committee in the House. For example, the Rules Committee can defeat a bill just by:

- delaying a vote, making the representatives lose interest.
- making it easy for opponents of the bill to add *killer amendments*, which are additions to the bill that they know will make other representatives not want to vote for the bill.



The Rules Committee can also help pass a bill by making it easy to add *sweetener amendments*. Sweetener amendments are the opposite of killer amendments. These are additions to the bill that members who are undecided or against the bill will like, so they will, hopefully, change their minds and vote for the bill.

In the Senate, which has fewer members, fewer rules are needed. For example, there is no time limit on debate. In the extreme, a senator who wants to delay action on a bill or defeat it altogether may use a *filibuster*. The senator hogs the floor by speaking for hours. During this filibuster, the senator will only let other senators speak who agree. A filibuster can be stopped only through *cloture*, a request to limit debate. However, at least 16 senators must agree to bring a cloture vote. If that occurs, 60 senators must actually vote to approve cloture, ending the filibuster. Even then, each senator can speak for an additional hour.

The Senate doesn't limit the subject of the proposed amendments like the House of Representatives does. Amendments complete unrelated to the bill are called *riders*, and these can effectively defeat a bill. For example, a bill proposing a tax raise to build new highways may have an amendment that reduces the quality standards for beef. Therefore, a senator who is in favor of building new highways but against reducing the beef quality standards will vote against the bill.

5

6

Vote in the sponsor's chamber

Bills are voted on in the House or Senate in several ways:

- by *voice vote* (either "aye" or "no").
- by *standing vote* (members must stand up to indicate "yes" or "no").
- by *roll call vote* (each member's vote for or against is recorded).

A bill will pass the Senate if a majority (51 out of 100 senators) votes for it. In the House, a bill will pass if a majority (218 out of 435 representatives) votes for it.

If the bill is defeated in the sponsoring chamber, it goes no further. If the bill is passed and a similar bill hasn't passed in the other chamber, the bill is sent to the other chamber, where the entire process begins all over again.

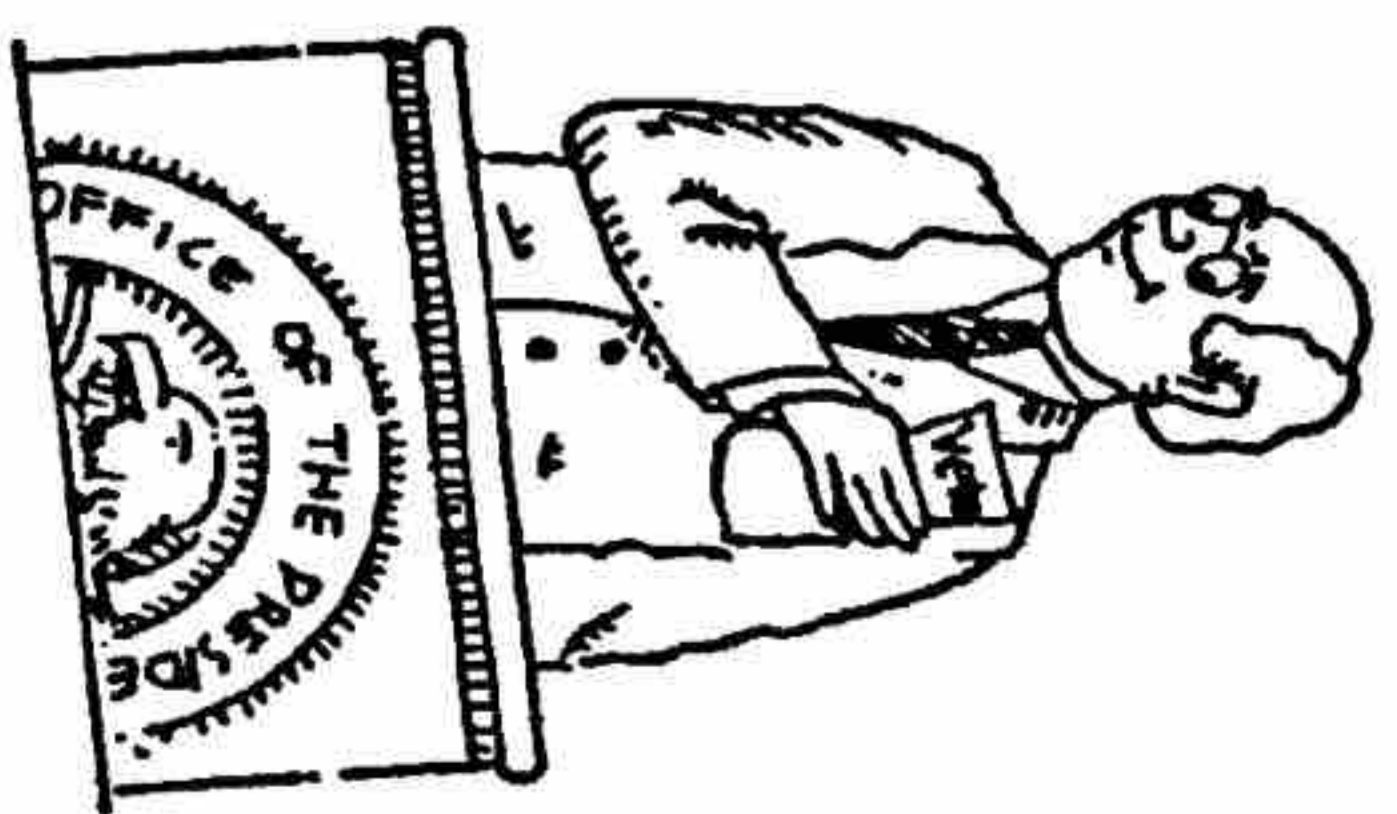
★What if the other chamber has passed a similar bill? If the House and Senate pass similar bills, these bills are sent to conference committee. The conference committee tries to sort out the differences between the bills and writes a compromise bill—a bill a majority of senators and representatives will vote for. Members of both the House and Senate who have worked on the bill in their respective standing committees serve on the conference committee. Once the conference committee agrees on a compromise bill, the bill is ready to be voted on in both the House and Senate.

→ Both chambers vote on the compromise bill

As before, once the compromise bill is approved, it is ready to be voted on by the House and the Senate. If the bill is defeated in one chamber, it dies there. However, if it passes in one chamber, it still must pass in the other chamber.

Step 8. Send the Congress-approved bill to the president

If both chambers pass the bill, the Speaker of the House and the president of the Senate sign it and send it to the president of the United States, who may sign (approve) or *veto* (turn down) the proposed legislation. The bill becomes a law if the president signs it. If the president doesn't act on a bill (either sign it or veto it) within ten days of receiving it (assuming Congress is still in session), the bill automatically becomes a law. On the other hand, if Congress adjourns (ends the session) before the ten days and the president hasn't signed the bill, then it doesn't become a law (called a *pocket veto*).



A bill cannot become a law if the president vetoes it, unless Congress overrides the veto. If the president vetoes the bill, it is sent back to Congress with a note listing the reasons why the president has vetoed it. The chamber that originated the legislation can attempt to override the veto. First, two-thirds of those present must vote to override. Once that is accomplished, the other chamber must also vote to override. A presidential veto is overridden when two-thirds of the House AND the Senate vote to do so. Once Congress overrides the presidential veto, the bill becomes a law.