

CRS Report for Congress

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Regular Vetoes and Pocket Vetoes: An Overview

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Summary

The veto power vested in the President by Article I, Section 7 of the Constitution has proven to be an effective tool for the chief executive in his dealings with Congress. Since the founding of the federal government in 1789, 35 of 43 Presidents have exercised their veto authority a total of 2,550 times. Congress has overridden these vetoes on 106 occasions (4.2%). Presidents have vetoed 80 appropriations bills, and Congress has overridden 12 (15.0%) of these vetoes. This report will be updated at the beginning of each new Congress.

Constitutional Basis and Importance

To become law, the U.S. Constitution (Article I, Section 7) provides that all bills that have been approved by both houses of Congress must be presented to the President for his approval and signature.¹ The President may sign a bill into law within the 10-day period (excluding Sundays) provided in the Constitution,² let it become law without his signature, or veto it. The Constitution states that, when the President vetoes a bill, “he shall return it, with his Objections to that House in which it shall have originated.” This type of action is called a “regular” or “return” veto. If, on the other hand, Congress has adjourned within the 10-day period after presentation of the bill to the President (thereby preventing the return of the bill to Congress), the President may simply withhold his signature, and the bill does not become law — a practice that has been dubbed a “pocket” veto.³ The President’s veto authority is among his most significant tools in legislative

¹ These bills include joint resolutions, but do not include proposed amendments to the Constitution, which require a two-thirds vote in each house, and are sent directly to the states for approval. U.S. Constitution, Art. V.

² U.S. Constitution, Art. I, Sec. 7.

³ Beginning in 1929, several judicial decisions have attempted to clarify when an adjournment by Congress “prevents” the President from returning a veto. For information on these cases, see (continued...)

dealings with Congress. Illustrative of this point is the fact that Presidents have vetoed 2,550 bills since 1789; of these, Congress has overridden 106 (4.2%). Moreover, the veto also can be effective as a threat, sometimes forcing Congress to modify legislation before it is presented to the President.

This report presents information on how regular vetoes can be overridden by Congress, the number of vetoes by each President, and the use of vetoes in relation to appropriations bills. The report does not address two other types of vetoes — “line-item” vetoes (since the President has no such power at present) and “legislative” vetoes (which are wielded by Congress, not the President).⁴

Overriding a Veto

If a bill is pocket vetoed while Congress is out of session, the only way for Congress to overcome the veto is to reintroduce the legislation as a new bill, pass it through both houses, and present it to the President again for his signature.⁵ On the other hand, Congress may override a regular veto without introducing new legislation.

According to Article 1, Section 7 of the Constitution, when the President chooses not to sign a bill and instead returns it to the chamber that originated it, the chamber enters the message of the President detailing the reasons for the veto into its Journal and then proceeds “to reconsider” the bill. The Constitution is otherwise silent on how Congress should consider a vetoed bill, and it is therefore House and Senate procedures that govern the treatment of bills returned by the President.⁶

Passage by a two-thirds margin in both houses is required to override a veto before the end of the Congress in which the veto is received. Although the Constitution states that approval requires “two thirds of that House,” congressional procedure, tradition, and judicial rulings have interpreted this requirement to mean two-thirds of those Members present and voting, provided there is a quorum present. If a two-thirds vote is successful in the originating house, that house informs the other of its decision to override the veto by message. Neither house is under any constitutional, legal, or procedural obligation to

³ (...continued)

CRS Report RL30909, *The Pocket Veto: Its Current Status*, by Louis Fisher.

⁴ On these types of vetoes, see CRS Report RS21991, *A Presidential Item Veto*, by Louis Fisher; and CRS Report RS22132, *Legislative Vetoes After Chadha*, by Louis Fisher.

⁵ Data are not readily available on overridden pocket vetoes.

⁶ For information on House procedures for considering vetoed bills, see (1) William Holmes Brown and Charles W. Johnson, *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* (Washington: GPO, 2003), chapter 57, pp. 901-907; (2) U.S. Congress, Constitution, *Jefferson’s Manual*, and *Rules of the House of Representatives*, H.Doc. 108-241, 108th Cong., 2nd sess. (Washington: GPO, 2005), pp. 51-56. For information on Senate procedures for considering vetoed bills, see Floyd M. Riddick and Alan S. Frumin, *Riddick’s Senate Procedure: Precedents and Practices*, 101st Cong., 2nd sess., S.Doc. 101-28 (Washington: GPO, 1992), pp 1381-1389.

schedule an override vote. It is not unusual for Congress to make no effort to override the veto if congressional leaders do not believe they have sufficient votes.

Vetoed Exercised and Overridden

Pocket Vetoes and Returned Vetoes

Table 1 shows that, since the beginning of the federal government in 1789, 35 of 43 Presidents have exercised their veto authority on a total of 2,550 occasions. Of that number, 1,484 (58.2%) have been regular vetoes — that is, the rejected legislation was returned to the congressional house of origin, while it was in session, with a presidential message of explanation — and 1,066 (41.8%) were pocket vetoed, or rejected while Congress was adjourned.⁷ Congress has overridden 106 (7.1%) of the 1,484 regular vetoes. This percentage, though, is skewed downward slightly by the enormous number of vetoes in administrations prior to the 87th Congress (which began in 1961).⁸ If one counts only the vetoes since 1961 (the beginning of the Kennedy Administration), one finds 350 vetoes and 33 overridden (9.4%).

Table 1. Presidential Vetoes, 1789-2005

President	Coincident Congresses	Regular Vetoes	Pocket Vetoes	Total Vetoes	Vetoes Overridden
Washington	1 st -4 th	2	—	2	—
Adams	5 th -6 th	—	—	—	—
Jefferson	7 th -10 th	—	—	—	—
Madison	11 th -14 th	5	2	7	—
Monroe	15 th -18 th	1	—	1	—
J. Q. Adams	19 th -20 th	—	—	—	—
Jackson	21 st -24 th	5	7	12	—
Van Buren	25 th -26 th	—	1	1	—
W. H. Harrison	27 th	—	—	—	—
Tyler	27 th -28 th	6	4	10	1
Polk	29 th -30 th	2	1	3	—

⁷ President George H.W. Bush attempted to pocket veto two bills during intrasession recesses. Congress considered the two bills enacted into law because the President had not returned the legislation. These two disputed vetoes are not included in **Table 1**.

⁸ Most of those vetoes prior to 1960 were of private bills, i.e., legislation that would confer benefits upon a single person or company, which were almost never overridden. In 1971, Congress gave administrators more discretion to handle the claims of individuals. Thus, the need for congressionally passed private bills has dropped dramatically — from hundreds per annum to a few dozen — and, therefore, the opportunities for vetoes. On private bills, see CRS Report 98-628, *Private Bills: Procedure in the House*, by Richard S. Beth.

President	Coincident Congresses	Regular Vetoes	Pocket Vetoes	Total Vetoes	Vetoes Overridden
Taylor	31 st	—	—	—	—
Fillmore	31 st -32 nd	—	—	—	—
Pierce	33 rd -34 th	9	—	9	5
Buchanan	35 th -36 th	4	3	7	—
Lincoln	37 th -39 th	2	5	7	—
A. Johnson	39 th -40 th	21	8	29	15
Grant	41 st -44 th	45	48	93	4
Hayes	45 th -46 th	12	1	13	1
Garfield	47 th	—	—	—	—
Arthur	47 th -48 th	4	8	12	1
Cleveland	49 th -50 th	304	110	414	2
B. Harrison	51 st -52 nd	19	25	44	1
Cleveland	53 rd -54 th	42	128	170	5
McKinley	55 th -57 th	6	36	42	—
T. Roosevelt	57 th -60 th	42	40	82	1
Taft	61 st -62 nd	30	9	39	1
Wilson	63 rd -66 th	33	11	44	6
Harding	67 th	5	1	6	—
Coolidge	68 th -70 th	20	30	50	4
Hoover	71 st -72 nd	21	16	37	3
F. D. Roosevelt	73 rd -79 th	372	263	635	9
Truman	79 th -82 nd	180	70	250	12
Eisenhower	83 rd -86 th	73	108	181	2
Kennedy	87 th -88 th	12	9	21	—
L. B. Johnson	88 th -90 th	16	14	30	—
Nixon	91 st -93 rd	26	17	43	7
Ford	93 rd -94 th	48	18	66	12
Carter	95 th -96 th	13	18	31	2
Reagan	97 th -100 th	39	39	78	9
G. H. W. Bush	101 st -102 nd	29	15	44	1
Clinton	103 rd -106 th	36	1	37	2
G. W. Bush	107 th -109 th	—	—	—	—
Total		1,484	1,066	2,550	106

Sources: U.S. Congress, Senate, Secretary of the Senate, *Presidential Vetoes, 1789-1988*, S.Pub. 102-12, 103rd Cong., 2nd sess. (Washington: GPO, 1992); and U.S. Congress, Senate, Secretary of the Senate, *Presidential Vetoes, 1989-1991*, S.Pub.102-13, 103rd Cong., 2nd sess. (Washington: GPO, 1992).

It is, perhaps, noteworthy that the present President has not wielded his veto thus far — a modern anomaly. Not since the presidency of Millard Fillmore (1850-1853) has a President served a full term without wielding his veto; not since the presidency of Thomas Jefferson (1801-1809) has a two-term President left office without vetoing a bill.

Vetoed of Appropriation Bills

A veto of an appropriations bill can result in the closure of federal agencies, the furlough of federal employees, and the interruption of federal programs and services.⁹ Despite these high stakes, Presidents have vetoed many appropriation bills.¹⁰ For example, Presidents Carter, Reagan, George H. W. Bush, and Clinton were presented with a total of 387 annual appropriations acts and vetoed 30 of them (7.8%).¹¹ Congressional overrides of vetoes of appropriations are also not unusual. For example, of the 80 vetoes of appropriations since 1789, 12 (15.0%) were overridden (see **Table 2**). Interestingly, half of the vetoes of appropriations bills have occurred since 1968.

Table 2. Appropriations Bills Vetoed, 1789-2005

President	Coincident Congresses	Approp. Acts Vetoed	Vetoes of Approp. Acts Overridden
Washington	1 st -4 th	—	—
Adams	5 th -6 th	—	—
Jefferson	7 th -10 th	—	—
Madison	11 th -14 th	—	—
Monroe	15 th -18 th	—	—
J. Q. Adams	19 th -20 th	—	—
Jackson	21 st -24 th	—	—
Van Buren	25 th -26 th	—	—
W. H. Harrison	27 th	—	—

⁹ For additional information on federal government shutdowns, see CRS Report 98-844, *Shutdown of the Federal Government: Causes, Effects, and Process*, by Kevin R. Kosar (archived and available on request from author), and CRS Report RL30339, *Preventing Federal Government Shutdowns: Proposals for an Automatic Continuing Resolution*, by Robert Keith.

¹⁰ The data in this section and in Table 2 include annual appropriations acts (which provide annual funding for the routine operations of most federal agencies), supplemental appropriations acts, and continuing appropriations acts. Excluded are measures dealing with impoundments, transfers, line-item vetoes under the Line Item Veto Act of 1996, and bills proposing appropriations for the relief of private claims.

¹¹ CRS Report RS20719, *Vetoed Annual Appropriation Acts: Presidents Carter Through Clinton*, by Mitchell Sollenberger, p. 2 (archived and available on request from author).

President	Coincident Congresses	Approp. Acts Vetoed	Vetoed of Approp. Acts Overridden
Tyler	27 th -28 th	2	—
Polk	29 th -30 th	1	—
Taylor	31 st	—	—
Fillmore	31 st -32 nd	—	—
Pierce	33 rd -34 th	4	2
Buchanan	35 th -36 th	1	—
Lincoln	37 th -39 th	—	—
A. Johnson	39 th -40 th	—	—
Grant	41 st -44 th	—	—
Hayes	45 th -46 th	5	—
Garfield	47 th	—	—
Arthur	47 th -48 th	1	1
Cleveland	49 th -50 th	1	—
B. Harrison	51 st -52 nd	—	—
Cleveland	53 rd -54 th	5	1
McKinley	55 th -57 th	—	—
T. Roosevelt	57 th -60 th	—	—
Taft	61 st -62 nd	4	—
Wilson	63 rd -66 th	8	—
Harding	67 th	1	—
Coolidge	68 th -70 th	—	—
Hoover	71 st -72 nd	2	—
F. D. Roosevelt	73 rd -79 th	1	1
Truman	79 th -82 nd	1	1
Eisenhower	83 rd -86 th	3	1
Kennedy	87 th -88 th	—	—
L. B. Johnson	88 th -90 th	—	—
Nixon	91 st -93 rd	5	1
Ford	93 rd -94 th	5	3
Carter	95 th -96 th	2	—
Reagan	97 th -100 th	6	1
G. H. W. Bush	101 st -102 nd	8	—
Clinton	103 rd -106 th	14	—
G. W. Bush	107 th -109 th	—	—
Total		80	12

Sources: U.S. Congress, Senate, Secretary of the Senate, *Presidential Vetoes, 1789-1988*, S.Pub. 102-12, 103rd Cong., 2nd sess. (Washington: GPO, 1992); and U.S. Congress, Senate, Secretary of the Senate, *Presidential Vetoes, 1989-1991*, S.Pub.102-13, 103rd Cong., 2nd sess. (Washington: GPO, 1992).