



# 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, 37 of 44 Presidents have exercised their veto authority a total of 2,564 times. Congress has overridden these vetoes on 110 occasions (4.3%). Presidents have vetoed 83 appropriations bills, and Congress has overridden 12 (14.5%) of these vetoes.

During the 111<sup>th</sup> Congress, President Barack H. Obama has vetoed two bills, H.J.Res. 64, an FY2010 appropriations measure, and H.R. 3808, the Interstate Recognition of Notarizations Act of 2010.

This report will be updated as events warrant.

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## Constitutional Basis and Importance

The U.S. Constitution (Article I, Section 7) provides that, for a bill to become law, it must be approved by both houses of Congress and presented to the President for his approval and signature. The President may sign a bill into law within the 10-day period (excluding Sundays) provided in the Constitution,<sup>1</sup> 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.<sup>2</sup> The President’s veto authority is among his most significant tools in legislative dealings with Congress. Illustrative of this point is the fact that Presidents have vetoed 2,564 bills since 1789; of these, Congress has overridden 110 (4.3%). Moreover, the veto also can be effective as a threat, sometimes forcing Congress to modify legislation before presenting it to the President.

This report presents information on how Congress can override regular vetoes, 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).<sup>3</sup> It also does not address presidential signing statements.<sup>4</sup>

## Overriding a Veto

If a bill is pocket vetoed while Congress is out of session, the only way for Congress to override 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. 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. Because the Constitution does not state exactly how Congress should reconsider a vetoed bill, House and Senate procedures govern the specific treatment of bills returned by the

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<sup>1</sup> U.S. Constitution, Art. I, Sec. 7.

<sup>2</sup> Beginning in 1929, several judicial decisions have attempted to clarify when an adjournment by Congress prevents the President from returning a veto. In recent decades, Presidents occasionally have claimed to have pocket vetoed a bill but then have returned the legislation to Congress. This practice, often called a “protective return veto,” is controversial. See CRS Report RL30909, *The Pocket Veto: Its Current Status*, by Louis Fisher (out of print; available from Kevin R. Kosar).

<sup>3</sup> On these types of vetoes, see CRS Report RL33635, *Item Veto and Expanded Impoundment Proposals: History and Current Status*, by Virginia A. McMurtry; CRS Report RL33365, *Line Item Veto: A Constitutional Analysis of Recent Proposals*, by Morton Rosenberg; and CRS Report RS22132, *Legislative Vetoes After Chadha*, by Louis Fisher.

<sup>4</sup> CRS Report RL33667, *Presidential Signing Statements: Constitutional and Institutional Implications*, by T. J. Halstead.

President.<sup>5</sup> 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.<sup>6</sup> 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 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.

## Vetoes Exercised and Overridden

### Regular Vetoes and Pocket Vetoes

**Table 1** shows that, since the beginning of the federal government in 1789, 37 of 44<sup>7</sup> Presidents have exercised their veto authority on a total of 2,564 occasions. Of that number, 1,498 (58.4%) were 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 (41.6%) were pocket vetoes, or rejected while Congress was adjourned.<sup>8</sup> Congress has overridden 110 (7.3%) of the 1,498 regular vetoes. This percentage, though, is skewed downward by the enormous number of vetoes in administrations prior to the 87<sup>th</sup> Congress (which began in 1961).<sup>9</sup> If one counts only the regular vetoes since 1961 (the beginning of the Kennedy Administration), one finds 233 vetoes and 37 overridden (15.9%).

George W. Bush was the first President since John Quincy Adams (1825-1829) to serve a full term without wielding his veto. No president since Thomas Jefferson (1801-1809) has served two terms without vetoing a bill.

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<sup>5</sup> For information on House and Senate procedures for considering vetoed bills, see CRS Report RS22654, *Veto Override Procedure in the House and Senate*, by Elizabeth Rybicki.

<sup>6</sup> 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.

<sup>7</sup> There have been 44 presidencies, but only 43 persons have served as President. Grover Cleveland was elected to two presidencies.

<sup>8</sup> 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**. President George W. Bush characterized his veto of H.R. 1585 as a pocket veto. Since the 110<sup>th</sup> Congress treated it as a regular veto, this report counts H.R. 1585 as a regular veto. Most recently, President Barack H. Obama characterized his October 8, 2010, veto of H.R. 3808 as a “pocket veto.” (See *Congressional Record—House*, November 15, 2010, p. H7402.) The House of Representatives treated it as a normal veto and voted unsuccessfully to override it on November 17, 2010.

<sup>9</sup> Most of those vetoes prior to 1961 were of private bills (i.e., legislation that would confer benefits upon a single person or company) and 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.

**Table I. Presidential Vetoes, 1789-2010**

President	Coincident Congresses	Regular Vetoes	Pocket Vetoes	Total Vetoes	Vetoes Overridden
Washington	1 <sup>st</sup> -4 <sup>th</sup>	2	—	2	—
J. Adams	5 <sup>th</sup> -6 <sup>th</sup>	—	—	—	—
Jefferson	7 <sup>th</sup> -10 <sup>th</sup>	—	—	—	—
Madison	11 <sup>th</sup> -14 <sup>th</sup>	5	2	7	—
Monroe	15 <sup>th</sup> -18 <sup>th</sup>	1	—	1	—
J. Q. Adams	19 <sup>th</sup> -20 <sup>th</sup>	—	—	—	—
Jackson	21 <sup>st</sup> -24 <sup>th</sup>	5	7	12	—
Van Buren	25 <sup>th</sup> -26 <sup>th</sup>	—	1	1	—
W. H. Harrison	27 <sup>th</sup>	—	—	—	—
Tyler	27 <sup>th</sup> -28 <sup>th</sup>	6	4	10	1
Polk	29 <sup>th</sup> -30 <sup>th</sup>	2	1	3	—
Taylor	31 <sup>st</sup>	—	—	—	—
Fillmore	31 <sup>st</sup> -32 <sup>nd</sup>	—	—	—	—
Pierce	33 <sup>rd</sup> -34 <sup>th</sup>	9	—	9	5
Buchanan	35 <sup>th</sup> -36 <sup>th</sup>	4	3	7	—
Lincoln	37 <sup>th</sup> -39 <sup>th</sup>	2	5	7	—
A. Johnson	39 <sup>th</sup> -40 <sup>th</sup>	21	8	29	15
Grant	41 <sup>st</sup> -44 <sup>th</sup>	45	48	93	4
Hayes	45 <sup>th</sup> -46 <sup>th</sup>	12	1	13	1
Garfield	47 <sup>th</sup>	—	—	—	—
Arthur	47 <sup>th</sup> -48 <sup>th</sup>	4	8	12	1
Cleveland	49 <sup>th</sup> -50 <sup>th</sup>	304	110	414	2
B. Harrison	51 <sup>st</sup> -52 <sup>nd</sup>	19	25	44	1
Cleveland	53 <sup>rd</sup> -54 <sup>th</sup>	42	128	170	5
McKinley	55 <sup>th</sup> -57 <sup>th</sup>	6	36	42	—
T. Roosevelt	57 <sup>th</sup> -60 <sup>th</sup>	42	40	82	1
Taft	61 <sup>st</sup> -62 <sup>nd</sup>	30	9	39	1
Wilson	63 <sup>rd</sup> -66 <sup>th</sup>	33	11	44	6
Harding	67 <sup>th</sup>	5	1	6	—
Coolidge	68 <sup>th</sup> -70 <sup>th</sup>	20	30	50	4
Hoover	71 <sup>st</sup> -72 <sup>nd</sup>	21	16	37	3
F. D. Roosevelt	73 <sup>rd</sup> -79 <sup>th</sup>	372	263	635	9
Truman	79 <sup>th</sup> -82 <sup>nd</sup>	180	70	250	12
Eisenhower	83 <sup>rd</sup> -86 <sup>th</sup>	73	108	181	2
Kennedy	87 <sup>th</sup> -88 <sup>th</sup>	12	9	21	—

President	Coincident Congresses	Regular Vetoes	Pocket Vetoes	Total Vetoes	Vetoes Overridden
L. B. Johnson	88 <sup>th</sup> -90 <sup>th</sup>	16	14	30	—
Nixon	91 <sup>st</sup> -93 <sup>rd</sup>	26	17	43	7
Ford	93 <sup>rd</sup> -94 <sup>th</sup>	48	18	66	12
Carter	95 <sup>th</sup> -96 <sup>th</sup>	13	18	31	2
Reagan	97 <sup>th</sup> -100 <sup>th</sup>	39	39	78	9
G. H. W. Bush	101 <sup>st</sup> -102 <sup>nd</sup>	29	15	44	1
Clinton	103 <sup>rd</sup> -106 <sup>th</sup>	36	1	37	2
G. W. Bush	107 <sup>th</sup> -110 <sup>th</sup>	12	—	12	4
Obama	111 <sup>th</sup> -	2	0	2	—
<b>Total</b>		<b>1,498</b>	<b>1,066</b>	<b>2,564</b>	<b>110</b>

**Sources:** U.S. Congress, Senate, Secretary of the Senate, “Vetoes” Web page, available at [http://www.senate.gov/reference/reference\\_index\\_subjects/Vetoes\\_vrd.htm](http://www.senate.gov/reference/reference_index_subjects/Vetoes_vrd.htm).

## Vetoes 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.<sup>10</sup> Despite these high stakes, Presidents have vetoed 83 appropriations bills since 1789; more than half of these vetoes have occurred since 1968.<sup>11</sup> 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%).<sup>12</sup> President George W. Bush vetoed two appropriations bills. Congressional overrides of vetoes of appropriations are not unusual; 12 of the 83 vetoes (14.5%) have been overridden (see **Table 2**).

<sup>10</sup> For additional information on federal government shutdowns, see CRS Report RL34680, *Shutdown of the Federal Government: Causes, Processes, and Effects*, by Clinton T. Brass.

<sup>11</sup> 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.

<sup>12</sup> CRS Report RS20719, *Vetoed Annual Appropriation Acts: Presidents Carter Through Clinton*, by Mitchell Sollenberger (out of print; available from Kevin R. Kosar).

**Table 2. Appropriations Bills Vetoed, 1789-2010**

<b>President</b>	<b>Coincident Congresses</b>	<b>Approp. Acts Vetoed</b>	<b>Vetoes of Approp. Acts Overridden</b>
Washington	1 <sup>st</sup> -4 <sup>th</sup>	—	—
Adams	5 <sup>th</sup> -6 <sup>th</sup>	—	—
Jefferson	7 <sup>th</sup> -10 <sup>th</sup>	—	—
Madison	11 <sup>th</sup> -14 <sup>th</sup>	—	—
Monroe	15 <sup>th</sup> -18 <sup>th</sup>	—	—
J. Q. Adams	19 <sup>th</sup> -20 <sup>th</sup>	—	—
Jackson	21 <sup>st</sup> -24 <sup>th</sup>	—	—
Van Buren	25 <sup>th</sup> -26 <sup>th</sup>	—	—
W. H. Harrison	27 <sup>th</sup>	—	—
Tyler	27 <sup>th</sup> -28 <sup>th</sup>	2	—
Polk	29 <sup>th</sup> -30 <sup>th</sup>	1	—
Taylor	31 <sup>st</sup>	—	—
Fillmore	31 <sup>st</sup> -32 <sup>nd</sup>	—	—
Pierce	33 <sup>rd</sup> -34 <sup>th</sup>	4	2
Buchanan	35 <sup>th</sup> -36 <sup>th</sup>	1	—
Lincoln	37 <sup>th</sup> -39 <sup>th</sup>	—	—
A. Johnson	39 <sup>th</sup> -40 <sup>th</sup>	—	—
Grant	41 <sup>st</sup> -44 <sup>th</sup>	—	—
Hayes	45 <sup>th</sup> -46 <sup>th</sup>	5	—
Garfield	47 <sup>th</sup>	—	—
Arthur	47 <sup>th</sup> -48 <sup>th</sup>	1	1
Cleveland	49 <sup>th</sup> -50 <sup>th</sup>	1	—
B. Harrison	51 <sup>st</sup> -52 <sup>nd</sup>	—	—
Cleveland	53 <sup>rd</sup> -54 <sup>th</sup>	5	1
McKinley	55 <sup>th</sup> -57 <sup>th</sup>	—	—
T. Roosevelt	57 <sup>th</sup> -60 <sup>th</sup>	—	—
Taft	61 <sup>st</sup> -62 <sup>nd</sup>	4	—
Wilson	63 <sup>rd</sup> -66 <sup>th</sup>	8	—
Harding	67 <sup>th</sup>	1	—
Coolidge	68 <sup>th</sup> -70 <sup>th</sup>	—	—
Hoover	71 <sup>st</sup> -72 <sup>nd</sup>	2	—
F. D. Roosevelt	73 <sup>rd</sup> -79 <sup>th</sup>	1	1
Truman	79 <sup>th</sup> -82 <sup>nd</sup>	1	1
Eisenhower	83 <sup>rd</sup> -86 <sup>th</sup>	3	1
Kennedy	87 <sup>th</sup> -88 <sup>th</sup>	—	—



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<b>President</b>	<b>Coincident Congresses</b>	<b>Approp. Acts Vetoed</b>	<b>Vetoes of Approp. Acts Overridden</b>
L. B. Johnson	88 <sup>th</sup> -90 <sup>th</sup>	—	—
Nixon	91 <sup>st</sup> -93 <sup>rd</sup>	5	1
Ford	93 <sup>rd</sup> -94 <sup>th</sup>	5	3
Carter	95 <sup>th</sup> -96 <sup>th</sup>	2	—
Reagan	97 <sup>th</sup> -100 <sup>th</sup>	6	1
G. H. W. Bush	101 <sup>st</sup> -102 <sup>nd</sup>	8	—
Clinton	103 <sup>rd</sup> -106 <sup>th</sup>	14	—
G. W. Bush	107 <sup>th</sup> -110 <sup>th</sup>	2	—
Obama	111 <sup>th</sup> -	1	—
<b>Total</b>		<b>83</b>	<b>12</b>

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**Sources:** U.S. Congress, Senate, Secretary of the Senate, “Vetoes” Web page, available at [http://www.senate.gov/reference/reference\\_index\\_subjects/Vetoes\\_vrd.htm](http://www.senate.gov/reference/reference_index_subjects/Vetoes_vrd.htm).

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