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Regular Vetoes and Pocket Vetoes: In Brief

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Updated July 18, 2019

Congressional Research Service

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RS22188



Regular Vetoes and Pocket Vetoes: In Brief

The veto power vested in the President by Article I, Section 7 of the Constitution has proven to be an effective tool in the executive branch's dealings with Congress. In order for a bill to become law, the President either signs the bill into law, or the President allows the bill to become law without signature after a 10-day period.

Regular vetoes occur when the President refuses to sign a bill and returns the bill complete with objections to Congress within 10 days. Upon receipt of the rejected bill, Congress is able to begin the veto override process, which requires a two-thirds affirmative vote in both chambers in order for the bill to become law. Pocket vetoes occur when the President receives a bill but is unable to reject and return the bill to an adjourned Congress within the 10-day period. The bill, though lacking a signature and formal objections, does not become law. Pocket vetoes are not subject to the congressional veto override process.

Since the founding of the federal government in 1789, 38 of 45 Presidents have exercised their veto authority a total of 2,576 times. Congress has overridden these vetoes on 111 occasions (4.3%). Presidents have vetoed 83 appropriations bills, and Congress has overridden 12 (14.5%) of these vetoes.

President Donald Trump has vetoed two measures since taking office in 2017, both in the first session of the 116th Congress. They are

- H.J.Res. 46, Relating to a national emergency declared by the President on February 15, 2019, vetoed on March 15, 2019; and
- S.J.Res. 7, A joint resolution to direct the removal of United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress, vetoed on April 16, 2019.

The House and Senate, respectively, sustained the President's veto in both instances.

RS22188

July 18, 2019

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This report presents information on the constitutional basis for vetoes, veto override procedure, and veto threats. It concludes with tables providing the counts of regular vetoes, pocket vetoes, and vetoes of appropriations bills.¹

The President's veto authority is among the most significant tools in the executive branch's dealings with Congress. The U.S. Constitution outlines the veto authority in Article I, Section 7. Thirty-eight of 45 Presidents have used the veto. Presidents have vetoed 2,576 bills since 1789; of these, Congress has overridden 111 (4.3%).

Constitutional Basis

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 approval and signature. Article I, Section 7 also provides the President with the power to veto, or “forbid,” the bill from becoming law. The President may sign a bill into law within the 10-day period (excluding Sundays), let the bill become law without signature,² or veto the bill.³

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...” For example, if the President vetoes a bill that was introduced in the Senate, the bill will be returned first to the Senate where the possible override process would begin. 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 refuse to sign the bill, and the bill does not become law—a practice called a “pocket” veto.⁴

Overriding a Veto

If a bill is pocket vetoed while Congress is out of session, the only way for Congress to circumvent the pocket veto is to reintroduce the legislation as a new bill, pass it through both chambers, and present it to the President again for signature.⁵ On the other hand, Congress may

¹ The report does not address two other types of vetoes—line-item vetoes (since the President currently has no such power) and legislative vetoes (which are wielded by Congress, not the President). It also does not address presidential signing statements. On the line-item veto, see CRS Report R42383, *Budget Process Reform: Proposals and Legislative Actions in 2012*, by Megan S. Lynch, and CRS Report R40113, *Federal Budget Process Reform in the 111th Congress: A Brief Overview*, by Megan S. Lynch. On the legislative veto, see CRS Report RS22132, *Legislative Vetoes After Chadha*, by Louis Fisher. The author of that report is no longer at CRS. Questions from congressional clients about its content can be directed to the author of this report.

² A bill will become law without the President's signature if the President refuses to sign the bill and refuses to return the bill to an active Congress within 10 days of being presented with the bill. U.S. Constitution, Art. I, Sec. 7 states, “If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.”

³ For a visual representation of this process, see CRS Infographic IG10007, *Presentation of Legislation and the Veto Process*, by Meghan M. Stuessy.

⁴ For more information, see pages 1-3 of, *Presenting Measures to the President for Approval: Possible Delays*, by Richard S. Beth. The author of that report is no longer at CRS. Questions from congressional clients about its content can be directed to the author of this report.

⁵ Recent Presidents and Congresses have disagreed about what constitutes a pocket veto. For more information about this debate, congressional clients may contact the author of this report for a copy of a congressional distribution memo,

override a regular veto without introducing new legislation through the process described in the U.S. Constitution.

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 from where it originated, the chamber enters the message of the President detailing the reasons for this refused approval 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 President.⁶ Passage by a two-thirds margin in both chambers is required to override a veto before the end of the Congress in which the veto is received.⁷ If a two-thirds vote is successful in the originating chamber, that chamber informs the other of its decision to override the veto by message. Neither chamber 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.

Veto Signaling

A veto threat can also prove to be an effective tool for the President, sometimes forcing Congress to modify legislation before presenting the bill to the President.⁸ In addition to public addresses concerning legislation, the President has the ability to issue Statements of Administration Policy (SAPs) to express the Administration’s view on a bill.⁹ SAPs are a written form of communication between the Administration and Congress and are typically issued shortly before floor action on the bill.¹⁰ The Office of Management and Budget coordinates the creation of SAPs on behalf of the Executive Office of the President.

SAPs communicate varying levels of Administration support or opposition to a bill. Importantly, SAPs are generally the first formal indicator of the Administration’s intent to veto a bill. SAPs containing veto threats contain language indicating either the President’s intent to veto, the President being advised to veto by agencies, or the President being advised to veto by the Administration’s senior advisors. SAPs are transmitted by the White House to Congress; they are also available on the White House website.¹¹

“Asserted Use of the Pocket Veto During the George W. Bush and Barack Obama Administrations,” by Alissa M. Dolan and Meghan M. Stuessy.

⁶ 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.

⁷ 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.

⁸ For more information about veto threats and SAPs, see page 3 of CRS Report R44539, *Statements of Administration Policy*, by Meghan M. Stuessy.

⁹ For more information on SAPs, see CRS Report R44539, *Statements of Administration Policy*, by Meghan M. Stuessy.

¹⁰ Shelley Lynne Tomkin, *Inside OMB: Politics and Process in the President’s Budget Office* (New York: M. E. Sharpe, Inc., 1998), p. 18.

¹¹ Office of Management and Budget, “Statements of Administration Policy,” May 2019, at <https://www.whitehouse.gov/omb/statements-of-administration-policy/>.

Vetoes Exercised and Overridden

Regular Vetoes and Pocket Vetoes

Table 1 shows that 38 of 45¹² Presidents have exercised their veto authority on a total of 2,576 occasions since 1789. Of that number, 1,510 (58.6%) were regular vetoes—that is, the rejected legislation was returned to the congressional chamber of origin, while it was in session, with a presidential message of explanation—and 1,066 (41.4%) were pocket vetoes, or rejected while Congress was adjourned.¹³ Congress has overridden 111 (7.4%) of the 1,510 regular vetoes. This percentage is skewed downward by the large number of vetoes prior to the 87th Congress (which began in 1961).¹⁴ If one counts only the regular vetoes since 1961 (the beginning of the Kennedy Administration), one finds 245 vetoes and 38 overridden (15.5%).

George W. Bush (2001-2009) was the first President since John Quincy Adams (1825-1829) to serve a full four-year term without using his veto. No President since Thomas Jefferson (1801-1809) has served two full terms without vetoing a bill, as President Bush used his veto in July 2006 during his second term in office.

President Donald Trump has vetoed two measures since taking office in 2017, both in the first session of the 116th Congress. They are

- H.J.Res. 46, Relating to a national emergency declared by the President on February 15, 2019, vetoed on March 15, 2019;¹⁵ and
- S.J.Res. 7, A joint resolution to direct the removal of United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress, vetoed on April 16, 2019.¹⁶

The House and Senate, respectively, sustained the President’s veto in both instances.

¹² There have been 45 presidencies, but only 44 persons have served as President. Grover Cleveland was elected to two nonconsecutive presidencies.

¹³ 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**. These attempts during the George H.W. Bush Presidency are discussed in CRS Report RL30909, *The Pocket Veto: Its Current Status*, by Louis Fisher. This report has been archived and a copy can be made available to congressional clients upon request. This report considers instances where Congress has treated a disputed pocket veto like a regular veto to be a regular veto and includes them in the counts provided. For more information about the current state of the pocket veto, congressional clients may contact the author of this report for a copy of a congressional distribution memo, “Asserted Use of the Pocket Veto During the George W. Bush and Barack Obama Administrations,” by Alissa M. Dolan and Meghan M. Stuessy.

¹⁴ Most vetoes prior to 1961 were of private bills (i.e., legislation that would confer benefits upon specified persons or companies) and were rarely overridden. In 1971, Congress increased the maximum dollar amount for which individual claims under that amount would be handled at an administrator’s discretion. Thus, the need for congressionally passed private bills dropped—from hundreds per annum to a few dozen—and, therefore, the number of opportunities for vetoes also dropped. On current practice regarding private bills, see CRS Report RS22450, *Procedural Analysis of Private Laws Enacted: 1986-2015*, by Christopher M. Davis.

¹⁵ U.S. Congress, House, Message from the President of the United States Transmitting Notification of the Veto of H.J.Res. 46, “Relating to a National Emergency Declared by the President on February 15, 2019,” 116th Cong., March 18, 2019, H.Doc. 116-22 (Washington: GPO, 2019).

¹⁶ U.S. Congress, Senate, *Message from the President of the United States Returning Without My Approval S.J.Res. 7, a Joint Resolution to Direct the Removal of United States Armed Forces from Hostilities in the Republic of Yemen That Have Not Been Authorized by Congress, Received During Adjournment of the Senate on April 17, 2019*, 116th Cong., April 29, 2019, S. Doc. 116-4 (Washington: GPO, 2019).

Table I. Presidential Vetoes, 1789-July 18, 2019

President	Coincident Congresses	Regular Vetoes	Pocket Vetoes ^a	Total Vetoes	Vetoes Overridden
Washington	1 st -4 th	2	—	2	—
J. 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	—
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	—

President	Coincident Congresses	Regular Vetoes	Pocket Vetoes ^a	Total Vetoes	Vetoes Overridden
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 -110 th	12	—	12	4
Obama	111 th -114 th	12	—	12	1
Trump	115 th -	2	—	2	—
Total		1,510	1,066^a	2,576	110

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, as of July 18, 2019.

- a. Recent Presidents and Congresses disagree about what constitutes a pocket veto. This table defers to the Senate’s count of pocket vetoes.

Vetoes of Appropriations Bills

A veto of an appropriations bill can result in a funding gap, which may lead to the closure of federal agencies, the furlough of federal employees, and the interruption of federal programs and services.¹⁷ Despite these potential outcomes, Presidents have vetoed 83 appropriations bills since 1789; more than half of these vetoes have occurred since 1968.¹⁸ For example, Presidents Jimmy Carter, Ronald Reagan, George H. W. Bush, and William Clinton were presented with a total of 387 appropriations bills and vetoed 30 of them (7.8%).¹⁹ Most recently, President Barack H. Obama vetoed one appropriations bill. Congressional overrides of vetoes of appropriations bills are not unusual; 12 of the 83 vetoes (14.5%) have been overridden (see **Table 2**).

¹⁷ For additional information on federal government shutdowns, see CRS Report RL34680, *Shutdown of the Federal Government: Causes, Processes, and Effects*, coordinated by Clinton T. Brass.

¹⁸ The data in this section and in **Table 2** include annual appropriations bills (which provide annual funding for the routine operations of most federal agencies), supplemental appropriations bills, and continuing appropriations bills. Excluded are measures dealing with impoundments, transfers, and line-item vetoes under the Line Item Veto Act of 1996, and bills proposing appropriations for the relief of private claims.

¹⁹ CRS Report RS20719, *Vetoed Annual Appropriation Acts: Presidents Carter Through Clinton*, by Mitchell Sollenberger. This report has been archived and a copy can be made available to congressional clients upon request from the author of this report.

Table 2. Appropriations Bills Vetoed, 1789-July 18, 2019

President	Coincident Congresses	Appropriations Bills Vetoed	Vetoes of Appropriations Bills 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	—	—
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 -110 th	2	—
Obama	111 th -114 th	1	—
Trump	115 th -	—	—
Total		83	12

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.

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Acknowledgments

Earlier versions of this report were written by Kevin R. Kosar, formerly of the Congressional Research Service. Congressional clients with questions about this report’s subject matter may contact Meghan M. Stuessy. Research contractor Madeline Morgan provided valuable assistance in updating the text and data in this report.

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