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Regular Vetoes and Pocket Vetoes: In Brief

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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 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, 37 of 44 Presidents have exercised their veto authority a total of 2,566 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.

President Barack H. Obama has vetoed four bills since taking office in 2009. H.J.Res. 64, an FY2010 appropriations measure, and H.R. 3808, the Interstate Recognition of Notarizations Act of 2010, were vetoed during the first and second sessions of the 111th Congress respectively. S. 1, the Keystone XL Pipeline Approval Act, and S.J.Res. 8, a bill disapproving a National Labor Relations Board union election rule, were vetoed in the first session of the 114th Congress.

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This report presents information on the process by which Congress can override regular vetoes, the number of vetoes by each President, and the use of vetoes in relation to appropriations acts. 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).¹ It also does not address presidential signing statements.²

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 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) as is provided for in the Constitution,³ let the bill become law without signature,⁴ or veto the bill.

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 will 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 simply refuse to sign the bill, and the act does not become law—a practice called a “pocket” veto.⁵

The President’s veto authority is among the most significant tools in the executive branch’s dealings with Congress. Presidents have vetoed 2,566 acts since 1789; of these, Congress has overridden 110 (4.3%). Moreover, a veto threat can also prove effective, sometimes forcing Congress to modify legislation before presenting it to the President.

¹ 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 about its content can be directed to the author of this report.

² CRS Report RL33667, *Presidential Signing Statements: Constitutional and Institutional Implications*, by Todd Garvey.

³ U.S. Constitution, Art. I, Sec. 7.

⁴ 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.”

⁵ CRS Report R41217, *Presenting Measures to the President for Approval: Possible Delays*, by Richard S. Beth.

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. On the other hand, Congress may 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 his or her 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 acts 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

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. SAPs are a written form of communication between the Administration and Congress and are typically issued shortly before floor action on the bill.⁸ 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; however, they are also available on the White House website.⁹

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

⁹ Office of Management and Budget, “Statements of Administration Policy on Non-Appropriations and Appropriations Bills,” May 2015, at https://www.whitehouse.gov/omb/legislative_sap_default.

Vetoes Exercised and Overridden

Regular Vetoes and Pocket Vetoes

Table 1 shows that 37 of 44¹⁰ Presidents have exercised their veto authority on a total of 2,566 occasions since 1789. Of that number, 1,500 (58.5%) 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 (41.5%) were pocket vetoes, or rejected while Congress was adjourned.¹¹ Congress has overridden 110 (7.3%) of the 1,500 regular vetoes. This percentage is skewed downward by the large number of vetoes in Administrations prior to the 87th Congress (which began in 1961).¹² If one counts only the regular vetoes since 1961 (the beginning of the Kennedy Administration), one finds 235 vetoes and 37 overridden (15.7%).

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.

President Barack H. Obama has vetoed four bills since taking office in 2009. H.J.Res. 64, an FY2010 appropriations measure, and H.R. 3808, the Interstate Recognition of Notarizations Act of 2010, were vetoed during the first and second sessions of the 111th Congress respectively. S. 1, the Keystone XL Pipeline Approval Act, and S.J.Res. 8, a bill disapproving a National Labor Relations Board union election rule, were vetoed in the first session of the 114th Congress.

¹⁰ There have been 44 presidencies, but only 43 persons have served as President. Grover Cleveland was elected to two nonconsecutive presidencies.

¹¹ 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 but, nevertheless, he returned it to Congress, and Congress treated it as a regular veto. Likewise, on several occasions, other recent Presidents (including Presidents prior to George W. Bush) have characterized some vetoes as pocket vetoes but have returned the bill with a message to Congress. Because Congress has treated those situations like a regular veto, this report considers those circumstances to be a regular veto and includes them in the counts provided. This practice is 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 upon request from the author of this report.

¹² Most vetoes prior to 1961 were of private bills (i.e., legislation that would confer benefits upon a single person or company) and were rarely overridden. In 1971, Congress gave administrators more discretion to handle the claims of individuals. 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 private bills, see CRS Report RS22450, *Procedural Analysis of Private Laws Enacted: 1986-2013*, by Christopher M. Davis.

Table I. Presidential Vetoes, 1789-2015

President	Coincident Congresses	Regular Vetoes	Pocket Vetoes	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	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 -	4	—	4	—
Total		1,500	1,066	2,566	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.

Vetoes of Appropriation Acts

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.¹³ Despite these potential outcomes, Presidents have vetoed 83 appropriations bills since 1789; more than half of these vetoes have occurred since 1968.¹⁴ For example, Presidents Carter, Reagan, George H. W. Bush, and Clinton were presented with a total of 387 appropriations acts and vetoed 30 of them (7.8%).¹⁵ President Barack H. Obama has vetoed one appropriations bill. Congressional overrides of vetoes of appropriations are not unusual; 12 of the 83 vetoes (14.5%) have been overridden (see **Table 2**).

¹³ 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.

¹⁴ 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.

¹⁵ 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 upon request from the author of this report.

Table 2. Appropriations Acts Vetoed, 1789-2015

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	—	—
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	—	—

President	Coincident Congresses	Approp. Acts Vetoes	Vetoes of Approp. Acts Overridden
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 -	1	—
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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