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Regular Vetoes and Pocket Vetoes: An Overview

Maeve P. Carey

Analyst in Government Organization and Management

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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.

President Barack H. Obama has vetoed two 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. These vetoes occurred during the 111th Congress. President Obama has not vetoed any legislation since then.

This report will be updated as events warrant.

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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 acts. 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).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 his approval and signature. The President may sign an act into law within the 10-day period (excluding Sundays) provided in the Constitution,³ let it become law without his signature, or veto it. The Constitution states that, when the President vetoes an act, “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 act to the President (thereby preventing the return of the bill to Congress), the President may simply withhold his signature, and the act does not become law—a practice called a “pocket” veto.⁴ 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 acts 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.

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 whence it originated, the chamber enters the message of the President detailing the reasons for his refused assent 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.⁵ Passage by a two-thirds margin in both houses is required to override a

¹ 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.

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

³ U.S. Constitution, Art. I, Sec. 7.

⁴ 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).

⁵ For information on House and Senate procedures for considering vetoed bills, see CRS Report RS22654, *Veto* (continued...)

veto before the end of the Congress in which the veto is received.⁶ 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 37 of 44⁷ Presidents have exercised their veto authority on a total of 2,564 occasions since 1789. 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.⁸ Congress has overridden 110 (7.3%) of the 1,498 regular vetoes. This percentage is skewed downward by the enormous number of vetoes in administrations prior to the 87th Congress (which began in 1961).⁹ 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 (2001-2009) 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.

(...continued)

Override Procedure in the House and Senate, by Elizabeth Rybicki.

⁶ 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.

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

⁸ 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 110th 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 regular veto and voted unsuccessfully to override it on November 17, 2010.

⁹ 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 rarely 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 RS22450, *Procedural Analysis of Private Laws Enacted: 1986-2013*, by Christopher M. Davis.

Table I. Presidential Vetoes, 1789-2013

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 -	2	0	2	—
Total		1,498	1,066	2,564	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.¹⁰ Despite these high stakes, Presidents have vetoed 83 appropriations bills since 1789; more than half of these vetoes have occurred since 1968.¹¹ 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%).¹² 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**).

¹⁰ 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.

¹¹ 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.

¹² 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 Acts Vetoed, 1789-2013

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 Vetoed	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.

Author Contact Information

Maeve P. Carey
 Analyst in Government Organization and
 Management
 mcarey@crs.loc.gov, 7-7775

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