

CRS Report for Congress

Received through the CRS Web

The Presidential Veto and Congressional Procedure

Gary L. Galemore
Analyst in American National Government
Government Division

Summary

Vetoes cast by the President represent a rejection of the will and intent of the majority in Congress as expressed in legislation. Presidential vetoes, and veto overrides, are often the reason for, or a reflection of, serious conflict between Congress and the President. The threat of a presidential veto can prompt the modification of bills moving through the legislative process. When appropriations measures are vetoed and Congress and the President cannot come to an agreement, the result can be the closure of federal agencies and the shutdown of federal programs and services.

Historically, 1,471 bills have been vetoed by Presidents, while another 1,067 have experienced a “pocket” veto. Only 7.2%, or 105, of the 1,471 regular vetoes have been overridden by Congress. If pocket vetoes are included with regular vetoes, Congress has overturned only 4% of all presidential vetoes.

Veto Process

When presented with legislation passed by both houses of Congress, the President may sign it into law within the 10-day period prescribed in the Constitution (Article I, Section 7), let it become law without his signature, or veto the bill. All bills and joint resolutions, except those proposing amendments to the Constitution, require the President’s approval before they become law. Amendments to the Constitution, which require a two-thirds vote of approval in each chamber, are sent directly to the states for ratification.

When Congress is in session, the President must exercise his veto within the prescribed 10-day period and return the rejected bill to Congress with the reasons for his veto. If the President neither signs nor vetoes legislation sent to him, it will become law without his signature. If, however, Congress has adjourned, preventing the return of a bill, the President may withhold his signature, with the result that the bill neither becomes law nor is returned to Congress for further action. This latter practice is known as a

“pocket veto.” Moreover, unlike the situation when a vetoed bill is returned, Congress does not have the opportunity or constitutional authority to override. (Only 19 states grant their governors pocket veto authority.)

Congressional Procedure

Congressional procedure for reconsidering vetoed legislation is similar in both the House and Senate. Congressional action on a vetoed measure begins when the President returns the bill to the chamber of origin along with his objections in the form of a veto message. Once the vetoed legislation has been received by the originating chamber, that house is constitutionally required “to reconsider” the vetoed bill. The Constitution is silent, however, on the definition of “reconsideration.” Procedure and tradition govern the treatment of vetoed bills returned by the President. On receipt of the vetoed bill, the President’s message is read into the journal of the receiving house. After entering the message into the journal, the House of Representatives or the Senate complies with the constitutional requirement “to reconsider” by laying the measure on the table (essentially killing it), referring the bill back to committee, postponing consideration to a certain day, or immediately voting on reconsideration (vote on override).

Action by both the House and the Senate is mandated. A two-thirds majority vote by Members present (provided there is a quorum), and not of those elected, is required to override a presidential veto. When one house fails to override, the other house will not attempt to override, even if the votes are present to succeed. Senate or House of Representatives action on a veto may be taken at any time during a Congress in which the veto is received. Most often, however, if a vote or other action is to occur, it will take place within a week or two of the veto’s being cast.

Table 1. Presidential Vetoes, 1789-Present

President	Congresses coincident with terms	Regular vetoes	Pocket vetoes	Total vetoes	Vetoes overridden
Washington	1, 2, 3, 4	2		2	—
Adams	5, 6	—	—	—	—
Jefferson	7, 8, 9, 10	—	—	—	—
Madison	11, 12, 13, 14	5	2	7	—
Monroe	15, 16, 17, 18	1	—	1	—
J.Q. Adams	19, 20	—	—	—	—
Jackson	21, 22, 23, 24	5	7	12	—
Van Buren	25, 26	—	1	1	—
W.H. Harrison	27	—	—	—	—
Tyler	27, 28	6	4	10	1
Polk	29, 30	2	1	3	—
Taylor	31	—	—	—	—
Fillmore	31, 32	—	—	—	—
Pierce	33, 34	9	—	9	5
Buchanan	35, 36	4	3	7	—
Lincoln	37, 38, 39	2	5	7	—
A. Johnson	39, 40	21	8	29	15
Grant	41, 42, 43, 44	45	48	93	4
Hayes	45, 46	12	1	13	1
Garfield	47	—	—	—	—
Arthur	47, 48	4	8	12	1
Cleveland	49, 50	304	110	414	2
B. Harrison	51, 52	19	25	44	1
Cleveland	53, 54	42	128	170	5
McKinley	55, 56, 57	6	36	42	—
T. Roosevelt	57, 58, 59, 60	42	40	82	1
W. H. Taft	61, 62	30	9	39	1
Wilson	63, 64, 65, 66	33	11	44	6

President	Congresses coincident with terms	Regular vetoes	Pocket vetoes	Total vetoes	Vetoes overridden
Harding	67	5	1	6	—
Coolidge	68, 69, 70	20	30	50	4
Hoover	71, 72	21	16	37	3
F.D. Roosevelt	73, 74, 75, 76, 77, 78, 79	372	263	635	9
Truman	79, 80, 81, 82	180	70	250	12
Eisenhower	83, 84, 85, 86	73	108	181	2
Kennedy	87, 88	12	9	21	—
L.B. Johnson	88, 89, 90	16	14	30	—
Nixon	91, 92, 93	26	17	43	7
Ford	93, 94	48	18	66	12
Carter	95, 96	13	18	31	2
Reagan	97, 98, 99, 100	39	39	78	9
Bush	101, 102	29	17	46	1
Clinton	103, 104, 105	23	0	23	1
TOTAL		1,471	1,067	2,538	105

Source: U.S. Congress, Secretary of the Senate, *Presidential Vetoes*, 1989-1996 (Washington: GPO, 1992), 12 pp. S. Pub. 105-22. U.S. Congress, Secretary of the Senate, *Presidential Vetoes*, 1789-1988 (Washington: GPO, 1992), 595 pp. S. Pub. 102-12.

References

- Robert J. Spitzer, *The Presidential Veto: Touchstone of the American Presidency* (Albany, N.Y.: State University of New York Press, 1988).
- U.S. Congress, House Parliamentarian, *Constitution, Jefferson's Manual and Rules of the House of Representatives of the United States One Hundred Fourth Congress*, H. Doc. No. 103-342, 103rd Cong., 2nd sess. (Washington: GPO, 1995), see sec. 108, consideration of a vetoed bill in the House, pp. 50-51.
- U.S. Library of Congress, Congressional Research Service, *Congressional Overrides of Presidential Vetoes*, by Gary L. Galemone, CRS report 95-1137 GOV (Washington: Oct. 16, 1996).
- *Presidential Vetoes, 1789-Present: A Summary Overview*, by Gary L. Galemone, C RS report 98-148 GOV (Washington: June 25, 1998).
- *President Clinton's Vetoes*, by Gary L. Galemone, CRS report 98-147 GOV (Washington: June 25, 1998).
- *Congressional Overrides of Presidential Vetoes*, Gary L. Galemone, CRS report 98-157 GOV (Washington: June 25, 1998).