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Veto Override Procedure in the House and Senate

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Summary

A bill or joint resolution that has been vetoed by the President can become law if two-thirds of the Members voting in the House and the Senate each agree to pass it over the President's objection. The chambers act sequentially on vetoed measures: The House acts first on House-originated measures (H.R. and H.J. Res.), and the Senate acts first on Senate-originated measures (S. and S.J. Res.). If the first-acting chamber fails to override the veto, the other chamber cannot consider it. The House typically considers the question of overriding a presidential veto under the hour rule, with time customarily controlled and allocated by the chair and ranking member of the committee with jurisdiction over the bill. The Senate usually considers the question of overriding a veto under the terms of a unanimous consent agreement.

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According to Article 1, Section 7, of the Constitution, when the President chooses not to sign a bill¹ and instead returns it to the chamber that originated it, the chamber shall enter the message of the President detailing the reasons for the veto in its *Journal* and then “proceed to reconsider” the bill.² A vetoed bill can become law if two-thirds of the Members voting in each chamber agree, by recorded vote, a quorum being present, to repass the bill and thereby override the veto of the President.

The chamber that originated the bill sent to the President acts first on the question of its reconsideration. In other words, the House acts first on vetoed bills that carry an “H.R.” or “H.J. Res.” designation, and the Senate acts first on vetoed bills that carry an “S.” or “S.J. Res.” designation. If the chamber of origin votes to repass the bill, then the bill with the veto message is transmitted to the second chamber, which then also reconsiders it.

Nothing in the Constitution requires that either chamber vote directly on the question of repassing a vetoed bill. The chambers have, for example, referred a vetoed bill to committee instead. If either chamber fails to vote on the question of repassing the bill, then the measure dies at the end of the Congress. Both chambers will not necessarily even have a chance to take up the question. If two-thirds of the Members of the chamber of origin do not agree to override a veto, then the measure dies, and the other chamber does not have an opportunity to vote on the question of repassing the bill.

The Constitution does not otherwise address how Congress should consider a vetoed bill, and it is therefore House and Senate rules and practices that additionally govern the treatment of bills vetoed and returned by the President.

House Procedure

Overview

The consideration of a vetoed bill is a matter of high privilege in the House, and the chamber generally votes to override or sustain the veto shortly after the message is received from the President or the Senate. Time for debate on the question is usually controlled and allocated by members of the committee of jurisdiction, and a majority of the House can vote to bring consideration to a close. To repass the bill over the veto of the President requires the support of two-thirds of the Members voting, a quorum being present.

Beginning Reconsideration of a Vetoed Bill in the House

On the day a vetoed bill and accompanying presidential message are received, the Speaker lays the message before the House. The veto message is read and entered in the *House Journal*. It is not necessary for a Member to make a motion to reconsider the vetoed bill. If no Member seeks

¹ In this report, the word *bill* is used to refer to all measures that are presented to the President, which includes bills as well as joint resolutions that do not propose constitutional amendments.

² Section 7 of Constitution gives the President 10 days, excluding Sundays, after the receipt of a measure from Congress to choose one of three options: sign the measure into law, veto it and return it to Congress, or take no action. If the President takes no action and Congress is in session, the bill becomes law without his signature. If, however, the Congress adjourns *sine die* before the 10-day period has expired, and the President takes no action, then the bill is “pocket vetoed.” For more information, see CRS Report RS22188, *Regular Vetoes and Pocket Vetoes: In Brief*, by Meghan M. Stuessy; and CRS Report RL30909, *The Pocket Veto: Its Current Status*, by Louis Fisher (out of print; available to congressional clients from this author upon request).

recognition after the message is read, the Speaker will put the question of overriding the veto before the House by stating:

The pending question is whether the House will, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding.

If Members do not wish to debate the question immediately, several preferential motions can be made before the Speaker states it. The House can agree by motion (or unanimous consent) to postpone the consideration of a veto message to a named day or to refer it to committee. The motion to postpone consideration of a veto message and the motion to refer a veto message are debatable under the hour rule.³ The House may also agree to a nondebatable motion to lay the vetoed bill on the table. While the motion to table usually permanently and adversely disposes of a matter, that is not true in the case of a vetoed bill. A motion to remove the bill from the table could be made at any time.

House Debate on Veto Override

Debate on the question of overriding a veto takes place under the hour rule. In practice, the Speaker recognizes the chair of the committee with jurisdiction over the vetoed bill for an hour of debate, and the chair in turn yields 30 minutes to the ranking minority member for purposes of the debate only.⁴ The chair and ranking member of the committee serve as floor managers of the debate, yielding portions of time to other Members who wish to speak. Typically, after the hour is consumed or yielded back, the majority floor manager moves the previous question. If a majority of the House votes to order the previous question, the vote immediately occurs on the question of overriding the veto.

Voting in the House

To override a veto, two-thirds of the Members voting, a quorum being present, must agree to repass the bill over the President's objections.⁵ The Constitution requires that the vote be by the "yeas and nays," which in the modern House means that Members' votes will be recorded through the electronic voting system. The vote on the veto override is final because, in contrast to votes on most other questions in the House, a motion to reconsider the vote on the question of overriding a veto is not in order.

If the override vote on a House or Senate bill is unsuccessful, then the House informs the Senate of this fact and typically refers the bill and veto message to committee. If the House votes to override a veto of a bill that originated in the House (H.R. or H.J. Res.), the bill and veto message are sent to the Senate for action. If the House successfully overrides a veto of a bill that originated in the Senate (S. or S.J. Res.), then the bill becomes law, because two-thirds of both chambers have agreed to override the veto.⁶

³ Both motions can be adversely disposed of with little or no debate by a nondebatable motion to table.

⁴ Because time on the question is controlled by the majority floor manager, other motions are typically not in order unless the majority floor manager makes the motions or yields to someone else for that purpose.

⁵ "Present" votes are not considered in determining whether two-thirds voted in the affirmative.

⁶ For additional information on the House action on vetoed bills, see (1) Charles W. Johnson, John V. Sullivan, and Thomas J. Wickham Jr., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* (Washington: GPO, 2017), ch. 57, pp. 929-936; and (2) U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, 115th Congress*, H.Doc. 114-192, 114th Cong., 2nd sess. (Washington: GPO, 2017), §§104-110a.

Senate Procedure

Overview

If the Senate wishes to reconsider a vetoed bill, Senators generally enter into a unanimous consent agreement that the message be considered as read, printed in the *Congressional Record*, and, as required by the Constitution, entered in the *Senate Journal*. Senators often also agree, by unanimous consent, to limit time for debate on the question of overriding the veto. When the Senate receives a vetoed measure from the President or the House, it is quite common for it to be “held at the desk” for several days and considered only after unanimous consent has been reached on the terms of its consideration. When the vote on the question occurs, it must be taken by roll-call vote and receive support from two-thirds of the Senators voting, a quorum being present.

Beginning Reconsideration of a Vetoed Bill in the Senate Without a Unanimous Consent Agreement

Although generally the Senate reconsiders a vetoed bill under the terms of a unanimous consent agreement, it is not necessary to secure the support of all 100 Senators to consider a vetoed bill in the Senate. Absent an arrangement to hold the veto message at the desk, it would be read and then entered into the *Journal* after its receipt from the President or the House.⁷ The presiding officer would then state:

Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Several debatable motions are in order, however, that could displace consideration of the veto message. The message could be referred to committee, for example, or postponed to a specific time. Alternatively, the majority leader might make a motion to proceed to another matter. The question of overriding the veto could be brought back before the Senate with the consent of all Senators or by a numerical majority through a nondebatable motion to proceed.

Finally, once the veto message has been laid before the Senate, it could also be tabled or indefinitely postponed, which would normally preclude any further action on the matter.

Senate Debate on Veto Override

The question of overriding a veto is debatable under the regular rules of the Senate. The question could be debated as long as any Senator sought recognition to discuss it.

Debate on the question of overriding a veto can be limited by unanimous consent or by invoking cloture. Ending debate through a cloture motion requires the support of three-fifths of Senators duly chosen and sworn, or 60 Senators if there is no more than one vacancy.⁸ Cloture is rarely used to end debate on overriding a presidential veto. The number of Senators required to end debate is less than the number required to override a veto (assuming that there are no vacancies and more than 90 Senators vote on the override question).

⁷ If a measure was being considered under the terms of a unanimous consent agreement, consideration of a veto message would not interrupt it (except by unanimous consent). See Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure*, 101st Cong., 2nd sess., S. Doc. 101-28 (Washington: GPO, 1992), p. 1384.

⁸ For more information on ending debate in the Senate, see CRS Report RL30360, *Filibusters and Cloture in the Senate*, by Valerie Heitshusen and Richard S. Beth.

Voting in the Senate

Two-thirds of the Senators voting, a quorum being present, must agree to override the veto and repass the bill. The vote must be a roll-call vote and not a voice vote, due to the constitutional requirement that the vote be by the “yeas and nays.” A motion to reconsider the vote on the question of overriding a veto is in order only if the Senate fails to override the veto. In other words, if two-thirds of the Senators agree to override the veto, a motion to reconsider that vote is not in order.

If the Senate fails to override a veto of a Senate-originated bill (S. or S.J. Res.), then the question of override never reaches the House. The Senate simply informs the House that the override vote on a House or Senate bill was unsuccessful. If the override vote on a Senate-originated measure (S. or S.J. Res.) is successful in the Senate, the bill and veto message are sent to the House for action. If the override vote on a House-originated measure (H.R. or H.J. Res.) is successful, then the bill becomes law, because two-thirds of both chambers have agreed to override the veto.⁹

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⁹ For additional information on Senate action on vetoed bills, see Riddick and Frumin, *Riddick's Senate Procedure*, pp. 1381-1389.