

COVER STORY

President's Mastery of Veto Perplexes Hill Democrats

*Skill in saying 'no' gives Bush far more influence
than the numbers would otherwise suggest*

President Bush's persistent use of his veto power has become the cornerstone of White House legislative strategy, confounding Democrats and setting the stage for a long season of partisan standoffs.

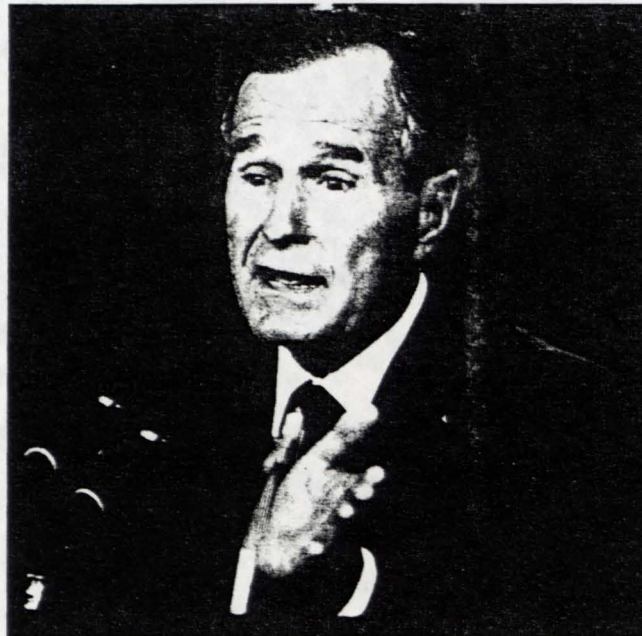
The threat of a veto, which Bush has used 21 times without being overridden, hangs over dozens of bills now before Congress. That gives Bush considerably more influence over legislation than many expected from a president whose party is so vastly outnumbered in Congress. (*Veto threats*, p. 2042)

"Bush has made greater use of the veto than any president since Gerald Ford," said Stuart E. Eizenstat, who was a top adviser in Jimmy Carter's White House. "The veto is a power that's always been inherent in the Constitution, but it's not always well used."

On contested issues as diverse as abortion counseling, civil rights, labor laws and China's trade status, congressional leaders now routinely take account of the need to find support from two-thirds of the House and Senate — the number needed to override a veto — rather than the simple majority needed to pass a bill. The success of Democratic-backed legislation is increasingly judged in Washington on its ability to withstand a veto.

Among Democrats, Bush's omnipresent veto strategy has spawned a heated debate about whether they should actively invite confrontations by pushing hard-core Democratic proposals or act only on issues on which they can garner veto-proof margins.

"We have fallen into the trap of thinking that if we don't have a two-



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thirds vote we should do nothing," said Rep. Vic Fazio of California, chairman of the Democratic Congressional Campaign Committee. With a more confrontational approach, Fazio said, "we might have fewer bills but more issues."

The president may have a tough time maintaining his winning streak as major legislation of the 102nd Congress takes shape. He has threatened to veto a highway bill and an emergency spending bill, both of which are packed with local projects that are the political lifeblood of lawmakers from both parties. And some abortion rights activists think that they could be the first to beat Bush with an override if he vetoes legislation lifting restrictions on abortion counseling.

"Obviously when it happens, it's going to be a significant event," said one White House official who asked not to be named. "It won't happen any time soon."

Bush's Six-Shooter

Bush has so far vetoed 21 bills, on matters ranging from the minimum wage to textile imports. In the past 30 years, only Ford vetoed more bills by a comparable time in his presidency. Faced with a heavily Democratic Congress in the wake of Watergate, Ford vetoed 66 bills in only three years and was overridden 12 times. (*Veto background*, 1990 *Weekly Report*, pp. 1934, 2991)

As impressive as Bush's success is in turning back override attempts, he has set no records. Dwight D. Eisenhower, for one, was well into his second term before he lost a veto fight. Eisenhower's final record: Congress overrode only two of his 181 vetoes.

Bush's prolific use of veto threats is, in one sense, a sign of a weak position in Congress. Bush came to office in 1989 with fewer Republicans in Congress than any other newly elected GOP president in this century. That left him with little influence except through the veto, an essentially defensive tool.

The veto was less central to President Ronald Reagan's power during most of his two terms because Republicans controlled the Senate until 1986 and the Democrats' majority in the House was less commanding in 1981-82. But with the loss of both those advantages, the veto became more important.

"The veto strategy as a weapon for battle between a Republican president and the Democratic Congress has become one of the standard tools," said Michael S. Johnson, a top aide to House Minority Leader Robert H. Michel, R-Ill., from 1977-90. "It's now what a six-shooter was to a cowboy — it's part of your political clothing."

Bush has shown what a powerful

By Janet Hook

From Abortion to Public Lands ...

Although President Bush has yet to cast a veto in 1991, the administration repeatedly has used the threat of a veto to block or shape legislation in the 102nd Congress.

Following are some of the bills that the administration has threatened to veto:

Abortion counseling

(S 323 — S Rept 102-86). The bill would overturn Bush administration regulations so that federal family planning clinics would be allowed to give abortion advice. The administration has also threatened to veto HR 2707 (S Rept 102-104), the fiscal 1992 Labor-HHS appropriations bill, which would bar expenditures of federal funds to enforce administration regulations on abortion counseling. (*Weekly Report*, p. 1983)

Baby bells

(S 173 — S Rept 102-41). The bill would allow regional telephone companies to manufacture telecommunications equipment. The administration opposes provisions requiring regional telephone companies that want to manufacture telecommunications equipment to do so within the United States and to use only domestic components. (*Weekly Report*, p. 1490)



Bureau of Land Management

(HR 1096 — H Rept 102-138). The fiscal 1992-95 reauthorization would mandate an increase in grazing fees on public lands, expand the definition of "areas of critical environmental concern" and revise a number of Interior Department procedures. The administration says the bill would make undesirable changes in the way the Interior Department manages public lands. (*Story*, p. 2068)

Cable TV re-regulation

(S 12 — S Rept 102-92, HR 1303). The bills would regulate rates and encourage competition in the cable television industry. The administration opposes more regulation of the industry and wants to lift restrictions that prohibit telephone companies from competing with cable operators by offering video programming. (*Weekly Report*, p. 1751)

Campaign finance

(S 3 — S Rept 102-37). The bill would set voluntary limits on a state-by-state basis on how much a candidate could spend on Senate elections and provide public funding and other benefits to those who complied. The administration opposes public financing of campaigns for those who accept voluntary spending limits. (*Weekly Report*, p. 1727)

China most-favored-nation status

(HR 2212). The bill would set conditions for renewing China's MFN status for 1992. Bush says a conditional extension would hurt those in China most committed to reforms. (*Story*, p. 2053)

Civil rights

(HR 1 — H Rept 102-40). The legislation would refine and strengthen key job anti-discrimination laws for women, religious minorities and blacks, mainly by reversing six 1989 Supreme Court decisions and by expanding Title VII of the 1964 Civil Rights Act. The administration says it would lead employers to use hiring and promotion quotas to avoid lawsuits. (*Weekly Report*, p. 1669)

Dairy price supports

(HR 2837, S 1527). The bills would boost price supports for milk and cap milk production. The Bush administration has threatened to veto the House version of the bill on the grounds that it would interfere in the marketplace and would increase the cost of nutrition programs such as the Women, Infants and Children's supplemental food program. (*Story*, p. 2075)



Defense authorization

(S 1507 — S Rept 102-113, HR 2100 — H Rept 102-60). The bills would authorize the defense budget for fiscal 1992. The House version would block production of more B-2 bombers, end research on Brilliant Pebbles space-based weapons, and permit the Air Force, Navy and Marine Corps to use women as combat pilots. The Bush administration says that Strategic Defense Initiative funding is too low and that the Brilliant Pebbles program is crucial. The administration also objects because there are no funds in the measure for B-2 bomber procurement and because the bill would permit abortions in military hospitals abroad. (*Story*, p. 2085)

Environmental Protection Agency

(S 533 — S Rept 102-82). The measures would give the EPA Cabinet status and would create a bureau of environmental statistics and a commission on environmental quality that the Bush administration says would be too independent of the executive branch. (*Weekly Report*, p. 851)

Federal facilities waste cleanup

(HR 2194 — H Rept 102-111, S 596 — S Rept 102-67). The bills would remove federal agencies' claim to "sovereign immunity" from state fines for failure to clean up facilities. The administration says it would open the way for more litigation that would slow federal efforts to clean up the most polluted government facilities first. (*Weekly Report*, p. 1749)

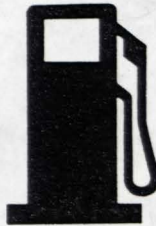
Foreign aid authorization

(S 1435 — S Rept 102-100, HR 2508 — H Rept 102-96). The House bill would authorize \$12.4 billion for fiscal 1992 and \$13 billion for fiscal 1993. Bush has threatened a veto because both the House and Senate bills would fund international family planning without abortion restrictions. (*Story*, p. 2095)

... Are Potential Veto Targets

Fuel efficiency standards

(S 279 — S Rept 102-48). The bill would set fuel efficiency targets for the next decade, including fleet averages of 30.2 miles per gallon as of model year 1996 and 34 mpg for 2001. Bush says it would hurt the auto industry and lead to smaller, less safe cars. The issue also will be dealt with in the national energy bill (S 1220), and the administration has threatened a veto of that bill if it includes strict efficiency targets. (*Weekly Report*, p. 1569)



would have flexibility to shift money from highways to other projects, such as mass transportation funding or installing bike racks on sidewalks. Highway and transit programs expire Sept. 30. Administration officials say it does not require state and local governments to pay a large enough share of highway projects, does not cut mass transit operating subsidies and violates budget caps. (*Weekly Report*, p. 1973)

Supplemental spending

A draft fiscal 1991 supplemental appropriations bill includes \$5.4 billion for disaster relief, crop loss payments, mop-up funds for Operation Desert Shield/Desert Storm and other items. Bush requested some of the funds, and members added others. The administration specifically objects to \$1.75 billion in disaster payments to farmers and ranchers, saying this money does not qualify for an emergency designation and should be offset by spending cuts. The authorization bill for disaster relief, HR 2893, is also under threat of a veto. (*Story*, p. 2059)

Hatch Act reform

(S 914, HR 20). The bills would ease Hatch Act restraints and allow federal employees to be politically active. The 52-year-old law currently prohibits them from running for office, working on partisan campaigns or holding office in a political party. Bush vetoed a similar reform bill last year, saying it would destroy the political neutrality of the federal workplace. (*Story*, p. 2072)

National Institutes of Health reauthorization

(HR 2507 — H Report 102-136). The bill would reauthorize the National Cancer Institute and the National Heart, Lung and Blood Institute. The administration opposes a provision to lift a ban on fetal-tissue transplants; it says that the amounts authorized are too high and that the bill would micromanage NIH. (*Story*, p. 2077)

Technology Pre-Eminence Act

(S 1034, HR 1989). The bills would authorize technology programs run by the Commerce Department. The administration has threatened to veto the House bill because it includes \$10 million for a loan program for companies to commercialize new technologies, which it says would allow the government to set industrial policy and to determine winners and losers in industry. (*Weekly Report*, p. 1982)

National voter registration

(S 250 — S Rept 106-60). The so-called motor-voter bill would require states to establish systems to ease voter registration. Besides providing registration in driver's license applications, the bill would allow registration by mail and in person at state and federal government offices. The administration says the legislation would lead to fraud and abuse and would unnecessarily add considerable costs to state governments. (*Weekly Report*, p. 1981)

Unemployment compensation

The Senate Finance Committee has approved a draft bill that would extend unemployment benefits beyond the current 26-week limit. The Bush administration says it will veto any extension that is not accompanied by offsetting spending cuts or additional revenue. The Senate bill does not contain such offsets. (*Story*, p. 2082)

Parental leave

(HR 2, S 5 — S Rept 102-68). The bills would require businesses and the federal government to give workers unpaid leave to care for newborns or ill relatives. Bush vetoed a similar bill in 1990; he opposes mandated benefits, saying the issue should be worked out between employees and employers. (*Weekly Report*, p. 1290)

Vertical price-fixing

(HR 1470, S 429 — S Rept 102-42). The bills would tighten the ban on vertical price-fixing, which occurs when a manufacturer conspires with a retailer to force a merchant to charge at least a certain price for goods or face a cutoff of supplies. Bush says the bill would punish legitimate business practices. (*Weekly Report*, p. 1770)

Striker replacement

(S 55, HR 5 — H Rept 102-57). The bills would prohibit hiring permanent replacements for striking workers — if they are union-represented employees. This is a priority for organized labor, but the administration says it would increase labor unrest. (*Weekly Report*, p. 1987)

Waiting period for handgun purchases

(HR 7 — H Rept 102-47). The Brady bill would require a seven-day waiting period for handgun purchases. The measure is named for former White House press secretary James S. Brady, who was wounded in 1981 during the assassination attempt on President Ronald Reagan. Bush administration officials say the measure won't stop criminals from getting guns; they will support it only as part of Bush's broad anti-crime package. (*Weekly Report*, p. 1898)



Surface transportation

(S 1204 — S 102-71). This five-year, \$123 billion bill would favor road repair over new construction. States

1991- D.C. Appropriations (no override attempt)
Unemployment (S. 1722 - Senate sustained, 65-35)

President Bush's Vetoes

1989			
Bill	Bill Description	Date	Outcome*
HR 2	Minimum-wage increase	June 13	House sustained, 247-178
S J Res 113	FS-X plane co-development	July 31	Senate sustained, 66-34
H J Res 390	Thrift bailout bill enrollment requirements	Aug. 16	No override attempt
HR 2990	Labor-HHS appropriations	Oct. 21	House sustained, 231-191
HR 3026	D.C. appropriations	Oct. 27	No override attempt
HR 2939	Foreign aid appropriations	Nov. 19	No override attempt
HR 3610	D.C. appropriations	Nov. 20	No override attempt
HR 1231	Eastern Airlines strike resolution	Nov. 21	House sustained, 261-160
HR 1487	State Department authorization	Nov. 21	No override attempt
HR 2712	Chinese immigrant status	Nov. 30	House override, 390-25 Senate sustained, 62-37
1990			
Bill	Bill Description	Date	Outcome*
HR 2364	Amtrak authorization	May 24	House override, 294-123 Senate sustained, 64-36
HR 20	Hatch Act amendments	June 15	House override, 327-93 Senate sustained, 65-35
HR 770	Parental/medical leave	June 29	House sustained, 232-195
HR 4328	Textile import quotas	Oct. 5	House sustained, 275-152
H J Res 660	Continuing appropriations	Oct. 6	House sustained, 260-138
S 2104	Civil rights	Oct. 22	Senate sustained, 66-34
HR 4638	"Orphan drug" amendments	Nov. 8	No override attempt
S 321	Indian Preference Act	Nov. 16	No override attempt
HR 4653	Export Controls authorization	Nov. 16	No override attempt
HR 3134	Relief of Joan R. Daronco	Nov. 16	No override attempt [†]
S 2834	Intelligence authorization	Nov. 30	No override attempt

* Veto overrides require a two-thirds majority vote of both houses.

[†] Similar provisions were included in HR 5316, signed on Dec. 1 (PL 101-650).

weapon it can be even when a president's party is heavily handicapped in Congress.

He can effectively block legislation backed by a majority in Congress with as few as 34 allies — one-third of the Senate. It takes a two-thirds vote in both the House and Senate to override a veto.

"The president is ruling the country by the rule of 33 plus one," said Sen. Dale Bumpers, D-Ark. "It doesn't matter what 535 people think. What matters is 34 people in the Senate."

The Senate's July 23 approval, 55-44, of a bill to set conditions on China's trade status was just the latest in a series of measures that have been approved by a majority in Congress despite a Bush veto threat but have fallen short of the two-thirds needed to turn them into law. (*China*, p. 2053)

Earlier this year, House Democrats struggled mightily to garner a two-thirds majority for civil rights legislation bitterly opposed by Bush, but fell

15 votes short. A bill to bar employers from hiring permanent replacements for workers on strike passed the House 247-182, but did not have the 286 votes needed to show override strength. (*Civil rights*, *Weekly Report*, p. 1498; *striker replacement*, *Weekly Report*, p. 1987)

A Perfect Record So Far

In maintaining his unbroken string of successful vetoes, Bush has a big advantage that Ford lacked for most of his presidency: There are now enough Republicans in both the House and Senate to supply the one-third needed to sustain a veto.

Those Republicans have a powerful incentive to stick with the president. As members of the minority party, they have little influence without him.

Members of Congress and political analysts say that a key to Bush's success is that he has picked his fights cautiously.

Reagan, by contrast, often cast ve-

toes on bills — such as a politically popular water projects bill in 1987 — that he knew would be overridden. (1987 *Almanac*, p. 291)

"Bush has been careful in selecting his targets," said the Brookings Institution's James L. Sundquist, who has studied Congress and the presidency. "When he knows he's going to lose, he goes ahead and signs the bill."

Bush also has proved adept at shifting his position enough to win the support he needs to prevail.

In a campaign earlier this year to defeat a resolution to curb his power to negotiate a free-trade agreement with Mexico, Bush blunted much of his opposition by issuing a plan for responding to labor and environmental concerns about the Mexico pact. (*Weekly Report*, p. 1120)

But on other bills, Bush has demonstrated toughness and tenacity. Last year he vetoed civil rights and parental leave bills despite warnings from many Republicans that those vetoes would have disastrous political consequences. (1990 *Almanac*, pp. 462, 359)

"When he talks veto, people take it seriously," said Rep. Steve Gunderson, R-Wis.

Maintaining the Streak

Like Kentucky Democrat William H. Natcher's perfect voting-attendance record in the House, Bush's winning streak on vetoes may become as much a burden to maintain as a source of leverage. Adding to the drama of each potential veto fight is the question: Will this be the time the White House stumbles?

Some Republicans put high priority on maintaining Bush's record, saying the first loss could dilute his perceived power. That argument is often used by GOP leaders to help persuade wavering Republicans to sustain a presidential veto.

"Republicans know their leverage comes from the credibility of the veto threat," said Sen. Richard G. Lugar, R-Ind.

Said Frederick D. McClure, chief White House lobbyist, "We have been fortunate that we've been able to sustain the president's position. I'm not going to put any value on maintaining a streak."

Democrats have been looking for a chink in the president's armor, hoping to end his indomitable record by passing bills opposed by Bush with a veto-proof margin. But so far, they have not cracked the code.

Tests To Come

Some Republicans say Bush's veto strength will be facing more tough tests in the coming months.

Bush has threatened to veto any bill that overturns his administration's rules banning abortion counseling in federally funded family planning clinics.

Opponents of the counseling ban are optimistic that they could override a veto on those grounds, citing support they have received from members of Congress who traditionally take anti-abortion positions.

But the issue is fraught with uncertainty. When the matter came up during floor debate on a House health appropriations bill (HR 2707) and a Senate family planning bill (S 323), neither side of the abortion counseling issue was certain enough of where it stood to call for a roll call vote. (*Weekly Report*, pp. 1983, 1766)

The White House may also be taking a calculated risk in threatening to veto a pending supplemental appropriations bill, which includes \$1.75 billion in disaster-relief aid.

The money is strongly supported by many farm-state Republicans, who might support overriding a veto to help constituents who have been hit hard by drought and crop freezes. (*Supplemental*, p. 2059)

"It's going to be close," said Rep. Fred Upton, a Republican from a district in Michigan where cherry growers saw two-thirds of their crop destroyed by a freeze this year.

But the spending bill's progress also vividly illustrates the power of the veto threat to reshape, not just kill, legislation unacceptable to the president.

The bill had been on the fast track until the White House issued its warning. Then the House Appropriations Committee yanked it from the schedule. Behind-the-scenes efforts to draft a compromise could obviate the need for a veto.

Bush's power to influence a bill in progress may also be demonstrated in the fate of a big highway bill (HR 2950), which is laden with local projects avidly sought by members of Congress.

Bush has vowed to veto the version of the bill approved July 25 by the House Public Works and Transportation Committee because it proposes a 5-cent increase in the gasoline tax. Many Republicans say Bush is dead serious because he was lambasted within his party last year for compro-



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ming on his no-new-taxes campaign pledge.

"I don't think it's an idle threat," said Sen. Steve Symms, an Idaho Republican who is a leading supporter of the Senate version of the highway bill.

Predicting that anti-tax fervor would be enough to rally GOP troops behind Bush, Symms said, "The veto would be sustained and the president would win."

But it may not even come to that. Bush's threatened veto was enough to make many House Democrats wary of pressing ahead with the gas tax increase.

"I don't know why the Democrats continue these exercises in futility when the president says he's going to veto," said Rep. Brian Donnelly, a Massachusetts Democrat who is a member of the tax-writing Ways and Means Committee.

That sentiment might kill the gas tax proposal when it goes before Ways and Means, which has to approve the revenue increase before it goes to the House floor as part of the highway bill. (*Story*, p. 2065)

Democratic Strategy Dispute

Bush's veto threats present Democrats with a recurring strategic choice: compromise or confrontation. Should they push legislation that seems destined for a veto? Or should they water down bills to garner a two-thirds majority, which inevitably must tap Republican ranks?

Intraparty divisions over that question have intensified in recent weeks. Some House Democrats' frus-

trations with the relatively non-confrontational approach of their top leaders surfaced during a recent campaign to choose a new majority whip.

And liberal Democrats in both chambers have been pushing their leaders to act on bills to liberalize unemployment compensation, provide tax relief for the middle class and protect striking workers — even though those measures seem certain to be vetoed.

"If he intends to veto everything, we ought to put out things that demonstrate the differences between him and us," said Sen. John Kerry, D-Mass. "You're going to see more of that."

But Democrats are hardly unanimous in that approach. House Ways and Means Chairman Dan Rostenkowski, D-Ill., has been loath to draft any bill increasing taxes. And some rank-and-file members are uncomfortable with the idea of forcing veto fights with the president for their own sake.

"That's the irresponsible approach," said Rep. Jim Cooper, D-Tenn. "Most bills are improved by compromise."

Bush himself may be taking a more confrontational tack as the election season gets into full swing.

"I think you will see a marked change from Labor Day until the election," said a White House official who asked not to be named. "There will be a variety of issues purely aimed at defining the differences between the parties. The president will begin doing more and more of that too." ■