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# Cloture Attempts on Nominations: Data and Historical Development Through November 20, 2013

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# Summary

The motion for cloture is available in the Senate to limit debate on nominations, as on other matters. **Table 6** lists all nominations against which cloture was moved from 1949, when the Senate changed the cloture rule to allow it to be moved on nominations, until November 21, 2013, when the Senate reinterpreted the rule to lower the threshold for invoking cloture on most nominations from three-fifths of the Senate to a majority of Senators voting. The reinterpretation of the rule significantly altered the use of cloture in the Senate, such that conclusions drawn from the data in this report are not applicable to similar data collected since that time. The initial version of this report was written prior to the 2013 reinterpretation of the rule; the report will not be further updated to reflect cloture action on nominations after that time.

Because cloture can be used to end consideration of a nomination, it can be used to overcome a filibuster against a nomination. **Table 6** shows the outcome of each cloture attempt on a nomination through November 20, 2013, and the final disposition of the nomination. It would be erroneous, however, to treat this table as a list of filibusters on nominations. Filibusters can occur without cloture being attempted, and cloture can be attempted when no filibuster is evident. Moreover, it appears that Senate leaders generally avoided bringing to the floor nominations on which a filibuster seemed likely. There are no means to identify the merely threatened filibuster.

From 1949 through November 20, 2013, cloture was sought on 143 nominations that were disposed of prior to the rule reinterpretation. On 59 of these nominations cloture was invoked, and on 55 others no cloture motion received a vote. All but 3 of these 114 nominations were confirmed. Only on the remaining 32 nominations did the Senate ultimately reject cloture; of these, 26 were not confirmed.

Until 1968, cloture was moved on no nominations, and from then through 1978, it was moved on only two. Even thereafter, in no single Congress from the 96th through the 102nd (1979 through 1992) was cloture sought on more than three nominations, and in no Congress from the 104th through the 107th (1995 through 2002) was it sought on more than five. Between these last two periods, however, the 103rd Congress (1993-1994) foreshadowed a more recent pattern, with cloture action on 12 nominations. In every Congress between 2003 and 2013, except the 110th (2007-2008), cloture was attempted on at least 14 nominations. The same five Congresses that saw cloture action on 12 or more nominations were those in which the Senate minority was of the party opposite that of the President.

In all the Congresses or periods identified, no more than a quarter of nominations with cloture attempts failed of confirmation, except in the 108th Congress (2003-2004), when almost 80% of nominations subjected to cloture attempts (mostly judicial) were not confirmed. Prominent in this Congress were discussions of making cloture easier to get on nominations by changing Senate rules through procedures not potentially subject to a supermajority vote. In the 112th Congress, by contrast, cloture was moved on a record 33 nominations (again mostly to judicial positions), but on 23 of these nominations, the nomination was confirmed without a cloture vote.

Overall, cloture was sought on nominations to 74 executive and 69 judicial positions. Judicial nominations, however, predominated in the two Congress just noted and before 2003, except in the 103rd Congress (1993-1994). Executive branch nominations predominated in that Congress and the 111th (2009-2010), both at the beginning of a new presidential Administration, as well as in the 109th Congress (2005-2006) and the start of the 113th Congress (2013).

Few of the nominations on which cloture was sought prior to the rule reinterpretation were to positions at the highest levels of the government. These included 4 nominations to the Supreme Court and 11 to positions at the Cabinet level.

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On November 21, 2013, the Senate reinterpreted Senate Rule XXII, lowering the number of Senators needed to invoke cloture on most nominations from three-fifths of the Senate to a simple majority.[1] Cloture places time limits on consideration of a matter, and so may be employed as a means of overcoming filibusters. Since the reinterpretation of the rule, the use of cloture on nominations has changed considerably. This report was originally written prior to the reinterpretation of the rule. It presents data on all nominations on which cloture motions were offered from 1949, when the Senate altered the rule to allow cloture to be moved on any matter, including nominations, until November 20, 2013 (see **Table 6**). It also presents data on the outcomes of these attempts, the development over time of Senate practice in seeking cloture on nominations until the rule was reinterpreted, and the positions in relation to which cloture has been offered. Before entering into these discussions, the report sketches some general features of cloture and considerations pertinent to interpreting its meaning.

# Cloture and the Consideration of Nominations

Senate rules place no general limits on how long consideration of a nomination (or most other matters) may last. Owing to this lack of general time limits, opponents of a nomination may be able to use extended debate or other delaying actions to prevent a final vote from occurring. The use of debate and procedural actions for the purpose of preventing or delaying a vote is termed a "filibuster."[2]

The only procedure by which the Senate can vote to place time limits on its consideration of a matter is the motion for cloture provided for in paragraph 2 of Senate Rule XXII. This motion, therefore, is the Senate's most common means of attempting to overcome a filibuster. When the Senate adopts a motion for cloture on a matter, known as "invoking cloture," further consideration of the matter becomes subject to a time limit, and upon the expiration of that time, a vote will occur. For most matters,[3] the time limit prescribed by the cloture rule is 30 hours, although under a standing order that was in effect only in the 113th Congress (2013-2014), this 30-hour limit was lowered for all but high-level executive and judicial nominations.[4]

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[1] The lower cloture threshold of a majority of those voting, a quorum being present, applied to all nominations except those to the Supreme Court. On April 6, 2017, the Senate reinterpreted Rule XXII again, and under current procedures cloture can be invoked also on U.S. Supreme Court nominations by a majority of those voting, a quorum being present. For more information see CRS Report R43331, *Majority Cloture for Nominations: Implications and the "Nuclear" Proceedings of November 21, 2013*, by Valerie Heitshusen; and CRS Report R44819, *Senate Proceedings Establishing Majority Cloture for Supreme Court Nominations: In Brief*, by Valerie Heitshusen.

[2] Filibusters and cloture are discussed more generally in CRS Report RL30360, *Filibusters and Cloture in the Senate*, by Valerie Heitshusen and Richard S. Beth. The process by which the Senate considers nominations is discussed more generally in CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki.

[3] Senate Rule XXII, paragraph 2, in U.S. Senate, Committee on Rules and Administration, *Senate Manual, Containing the Standing Rules, Orders, Laws, and Resolutions Affecting the Business of the United States Senate*, S.Doc. 113-1, 113th Cong., 1st sess., prepared by Matthew McGowan under the direction of Kelly L. Fado, staff director (Washington: GPO, 2014), §22.2. During the 30 hours, no single Senator, other than the party floor leaders, the managers of the debate, or Senators to whom any of these may yield time, may occupy more than one hour in debate.

[4] This standing order was established by §2 of S.Res. 15 of the 113th Congress, adopted January 25, 2013. The 30-hour limit continued to apply to post-cloture consideration of nominations only for the Supreme Court, Circuit Courts of Appeals, Court of International Trade, heads of Cabinet departments, and a small group of other positions often considered to be of "Cabinet rank." For most other nominations, the standing order limited consideration under cloture to eight hours, and for nominations to U.S. District Courts the post-cloture limit was two hours. For more detailed information on this standing order, see CRS Report R42996, *Changes to Senate Procedures at the Start of the 113th Congress Affecting the Operation of Cloture (S.Res. 15 and S.Res. 16)*, by Elizabeth Rybicki.

By invoking cloture, the Senate may be able to ensure that a question will ultimately come to a vote. Until November 21, 2013, however, the Senate could impose the constraints of cloture only by a supermajority vote. Three-fifths of the full Senate (60 votes, if there is no more than one vacancy) was required to invoke cloture. In earlier Congresses, as a result, even if a majority of Senators supported a nomination, opponents could possibly prevent a vote on it by defeating any attempt to invoke cloture, and continuing to extend consideration. As a result, although any nomination can always be approved by a simple majority of Senators present and voting, prior to November 2013 the support of a supermajority was required to limit consideration and enable the Senate to reach a vote.

After the reinterpretation of the rule in November of 2013, the number necessary to invoke cloture was lowered to a simple majority, but other features of the cloture rule remained the same. With the new majority cloture rule, therefore, Senators can still extend post-cloture consideration of a nomination, within the limits of the cloture rule, including a limit of one hour of debate for each Senator and a total time limit of 30 hours of consideration on each nomination. The large number of nominations submitted to the Congress, particularly at the outset of a new presidential administration, can lead the majority to seek unanimous consent rather than cloture in order to approve nominations more quickly.

## Cloture Motions Do Not Correspond With Filibusters

Although cloture affords the Senate a means for overcoming a filibuster, it is erroneous to assume that cases in which cloture is sought are always the same as those in which a filibuster occurs. Filibusters may occur without cloture being sought, and cloture may be sought when no filibuster is taking place. The reason is that cloture is sought by supporters of a matter, whereas filibusters are conducted by its opponents.

It is possible, as a result, that opponents of a matter may use debate and other procedural actions to delay a vote without supporters deciding to move for cloture. This situation appears not to be common today, but does seem to have occurred in relation to nominations in earlier times. Supporters may refrain from seeking cloture either because they think they lack the votes to obtain it, because they believe they can overcome any delaying actions and reach a vote without resorting to cloture, or because they hope to resolve the matter in dispute by some negotiated accommodation.

On the other hand, leaders of the majority party, or other supporters of a matter, may move for cloture even when opponents deny that they are conducting a filibuster, or at a point when no extended debate or delaying actions have actually occurred. They may do so in response to a threat or perceived threat of a filibuster, or simply in an effort to speed action. It often appears that Senate leaders attempt to avoid bringing to the floor matters, including legislation as well as nominations, on which they foresee a likelihood that filibusters will occur. These agenda choices may be motivated in part by a desire to avoid expending scarce floor time on matters that cannot be brought to a successful conclusion.

Compounding the potential for misunderstanding, in recent times observers have increasingly extended the use of the term “filibuster” to apply to situations in which opponents of a matter attempt in advance to discourage its consideration on the Senate floor. These situations are also sometimes described as “silent filibusters.” They may arise, for example, when Senators inform their respective party floor leaders that they prefer the nomination (or other matter) not to receive floor consideration, an action that has become known as placing a “hold” on a matter. Although a

"hold" has no formal procedural force under Senate rules, it may represent an implicit threat to filibuster that may discourage the majority leader from bringing the matter to the floor.[5]

This newer sense of the term "filibuster" is sharply distinct from the historically better-established usage described above, which refers to actions actually taken during floor consideration. Cloture motions cannot be used to identify "filibusters" in the sense of matters withheld from floor consideration, because action under the cloture rule is, itself, something that occurs only in the course of floor proceedings. Except by unanimous consent, indeed, cloture can be moved only on a question already pending on the floor. On matters on which a filibuster is in prospect, as a result, the possibility of cloture can arise only if the leadership determines to bring the matter to the floor despite the possibility of filibuster, and at that point the previously "silent filibuster" either becomes an overt filibuster or fails to materialize.

Furthermore, in Congresses just prior to the reinterpretation of the rule, when the possibility of a filibuster was foreseen, the Senate occasionally agreed by unanimous consent to consider a nomination under time limits, but required 60 votes for its approval. Under this arrangement, the so-called "60-vote hurdle" or "60-vote threshold" preserved the possibility for a minority (if sufficiently large) to prevent approval, yet the time limit made it unnecessary to offer any cloture motion. As a result, these cases of potential filibuster also are not identifiable from the presence of cloture motions.

The reinterpretation of the cloture rule further complicates using cloture motions as a method for identifying filibusters, particularly when making comparisons over time. After the reinterpretation of the rule, a Senate majority of the President's party became far more likely to attempt cloture. While the majority party might claim the increased use of cloture reflects increased obstruction by the minority, the minority might claim the increased use of cloture reflects a majority more readily and perhaps routinely relying on a simple majority process, regardless of any actual or perceived threat to filibuster. The incomparability of the periods before and after the rules reinterpretation made it inappropriate to extend the data presented in this report past the point of the rule reinterpretation.[6]

If cloture cannot serve directly as a measure of filibusters, however, neither can any other specific procedural action. A filibuster is a matter of intent; any proceedings on the floor might constitute part of a filibuster if they are undertaken with the purpose of blocking or delaying a vote. Yet any of the procedural actions that might be used to delay or block a vote might also be used as part of a normal course of consideration leading without difficulty to a final decision. As a result, filibusters cannot simply be identified by explicit or uniform criteria, and there is no commonly accepted set of criteria for doing so. Instead, determining whether a filibuster is occurring in any specific case typically requires a degree of subjective judgment.

For all these reasons, it would be a misuse of the following data, which identify nominations on which cloture was sought, to treat them as identifying nominations subjected to filibuster. It would equally be a misinterpretation to assume that all nominations on which cloture was not sought were not filibustered (especially for periods before 1949, when, as discussed later, it first became possible to move cloture on nominations). This report provides data only on nominations on which cloture motions were offered. It is not to be taken as providing systematic data on

[5] For further information on holds, see CRS Report R43563, *"Holds" in the Senate*, by Mark J. Oleszek.

[6] Data on cloture motions filed on nominations since November 21, 2013, are available to congressional clients in CRS congressional distribution memorandum, "Nominations with Cloture Motions 113th (2013-2014); 114th (2015-2016); and 1st session (2017) 115th Congress," by Elizabeth Rybicki, Richard S. Beth, and Michael Greene. Data on cloture on all matters is also updated daily on the Senate website at https://www.senate.gov/reference/cloturecounts.htm.

nominations that were or were not filibustered. It would not be feasible to develop a list of measures filibustered unless a commonly accepted standard for identifying what constitutes filibustering could first be established.[7] At most, the data presented here may be regarded as identifying some potentially likely cases in which a filibuster (by some appropriate definition) may have occurred prior to the reinterpretation of the cloture rule in 2013.

# Frequency of Cloture Attempts on Nominations

The Senate first adopted a cloture rule (paragraph 2 of Rule XXII) in 1917. Until 1949, cloture could be moved only on legislative measures; nominations could not be subjected to cloture attempts.[8] From 1949 through November 20, 2013 (81st Congress through the start of the 113th Congress), cloture was sought on 143 nominations.[9] (This total and other data presented in this report do not include four failed cloture attempts on four nominations that occurred prior to November 21, 2013, because subsequent successful cloture votes were held on all four nominations after the reinterpretation of the rule.) **Table 6**, following the text of this report, identifies the 143 nominations, the number of separate cloture motions filed on each, the ultimate outcome of the cloture attempt in each case, and the disposition of each nomination. As shown by the summary in **Table 1**, the Senate invoked cloture on 59 of these 143 nominations. On another 56 of these nominations, cloture motions were offered, but never came to a vote, because the motions were withdrawn or vitiated by unanimous consent, or because they fell (that is, became moot before the cloture vote occurred). On the remaining 28 of the 143 nominations, the Senate voted against imposing cloture.[10]

Of the 143 nominations on which cloture was sought, 118 ultimately won confirmation. The 118 nominations confirmed include all 59 on which the Senate invoked cloture and all but three of the 56 on which no cloture vote occurred.[11] Even among the 28 nominations on which the Senate voted only against cloture, 6 were nevertheless able to achieve confirmation (completing the total of 118 nominations confirmed). The remaining 22 nominations on which the Senate ultimately rejected cloture failed of confirmation, in each case because, at some point after the final vote to reject cloture, the nomination was withdrawn from consideration, so that no final vote occurred.

[7] These questions of method are discussed in more detail in Richard S. Beth, "What We Don't Know About Filibusters," paper presented at the annual meeting of the Western Political Science Association, Portland, Ore., March 1995 (available to congressional clients from the author).

[8] U.S. Congress, Senate, Committee on Rules and Administration, *Senate Cloture Rule: Limitation of Debate in the Congress of the United States and Legislative History of Paragraph 2 of Rule XXII of the Standing Rules of the United States Senate (Cloture Rule)*, S.Prt. 112-31, prepared by the Congressional Research Service, Library of Congress, 112th Cong., 1st sess. (Washington: GPO, 2011), pp. 17, 20-21, 185-192.

[9] For purposes of this report, five State Department nominations considered concurrently by unanimous consent are counted as one, and each instance in which a single individual was concurrently nominated to two positions is counted as one.

[10] The data include all cloture action in relation to a nomination, whether the motion was offered to close debate on the nomination itself or on a debatable motion to proceed to its consideration (which did not occur in practice after 1980).

[11] In the other three cases, on the nomination of Richard Stickler to be an Assistant Secretary of Labor in the 109th Congress (2006-2007), and the nominations of Sharon Block and Richard F. Griffin Jr. to be members of the National Labor Relations Board in the 113th Congress, the cloture motions were withdrawn and the nominations were not confirmed.

**Table 1. Cloture Attempts and Action on Nominations, 1949-November 20, 2013**

| | Action on Nomination | | |
|---|---|---|---|
| **Cloture Action** | **Confirmed** | **Not Confirmed** | **Total** |
| Invoked | 59 | 0 | 59 |
| Withdrawn, Vitiated, or Fell[a] | 53 | 3 | 56 |
| Rejected | 6 | 22 | 28 |
| Total | 118 | 25 | 143 |

**Source:** Compiled from data in **Table 6**. The table does not include four failed cloture attempts on four nominations that occurred prior to November 21, 2013, because subsequent successful cloture votes were held on all four nominations after the reinterpretation of the rule.

a. This group includes only nominations on which no cloture motion received a vote. *Withdrawn* and *vitiated* mean that the Senate disregarded the cloture motion, and took no further action on it. *Fell* means that the cloture motion received no vote because it became moot.

Overall, none of the 25 nominations that failed of confirmation following a cloture motion was rejected by the Senate on an "up-or-down" vote. This pattern is consistent with Senate action on nominations generally; in contemporary practice, nominations that reach a final vote are very seldom rejected.

# Historical Development of Cloture Attempts on Nominations

The assertion is sometimes made that filibusters against nominations were infrequent until recent years. Little comprehensive knowledge, however, exists about such filibusters in earlier times. One reason is that until 1929, the Senate normally considered nominations in closed session. Until 1917, moreover, the Senate had no rule for bringing debate on any matter to a close, and even thereafter, as noted above, the cloture rule did not apply to nominations until 1949. For any earlier years, accordingly, it would not be even possible to try to use cloture as a measure of filibustering on nominations.

Certainly, some historical accounts reference instances of lame duck sessions preceding a change in party control of the presidency in which the Senate generally declined to confirm nominations by the outgoing President. Even in these cases, however, it is not clear that the nominations often failed as a result of filibusters on the floor.

There is, nevertheless, some reason to think that in earlier periods, filibustering on nominations was, indeed, infrequent. It is not clear, however, that this condition prevailed chiefly because Senate practice discouraged filibustering in such cases. Instead, it appears that Presidents often may have submitted nominations only after prior consultation with Senators. There also seems reason to suppose that often, when any Senators strongly objected to a nomination, the Senate might decline to bring the matter to the floor in the first place. The custom of "Senatorial courtesy," under which the Senate would decline to consider a nomination to a position in the home state of a Senator who declared the nomination "personally obnoxious" to him, represented an instance of such practices.[12]

[12] See G. Calvin Mackenzie, "Senatorial Courtesy," in Donald C. Bacon, Roger H. Davidson, and Morton Keller, eds., *The Encyclopedia of the United States Congress*, vol. 4 (New York: Simon & Schuster, (c)1995), pp. 1794-1795.

To the extent that these suppositions are well founded, it might be said, in effect, that during these earlier periods, obstacles to the confirmation of nominations manifested themselves more often in the form of what today might be called "silent filibusters" than through overt opposition during floor consideration. The prevalence of such situations, of course, could not be ascertained from the examination of floor proceedings.

Even after Senate rules began to permit the use of cloture on nominations in 1949, it was not deemed necessary to seek cloture on any until 1968 (90th Congress), when a motion to proceed to consider the nomination of Supreme Court Associate Justice Abe Fortas to be Chief Justice was debated at length. After the Senate rejected cloture on the motion to proceed, 45-43, President Lyndon B. Johnson withdrew the nomination. In 1969 and 1970, the nominations of Clement F. Haynsworth and G. Harrold Carswell to the Supreme Court were defeated after lengthy debate, but no cloture motion was filed on either. When the Senate considered the nomination to the Supreme Court of William H. Rehnquist late in the 1971 session, however, cloture was quickly sought. Though the Senate did not invoke cloture (52-42), the nomination was subsequently confirmed.

Cloture was sought on no other nomination until 1980. That occurrence was the first in which cloture was sought on a nomination to an executive branch position, that of William G. Lubbers to be General Counsel of the National Labor Relations Board. Cloture was invoked, and the nomination was confirmed.

In the meantime, the majority required for invoking cloture on most matters, including nominations, had been changed in 1975 from two-thirds of Senators present and voting to three-fifths of the full membership of the Senate (60 votes, assuming no more than one vacancy).[13] This change in the rules generally meant that the threshold for invoking cloture was lowered: if all 100 Senators participated in the vote, the previous rule required the votes of 67 to invoke cloture; the new rule normally required 60 votes, regardless of how many Senators participated.

Since 1980, as **Table 2** illustrates, the frequency with which nominations have been subjected to cloture attempts has continually tended to increase (a development that parallels a trend in the frequency of cloture motions overall). In this table (and **Table 3** below), data on each Congress in which cloture was moved on more than 10 nominations are set forth separately, but data for suitable groups of consecutive Congresses with less frequent cloture action on nominations are consolidated in a single row.

Not only do the data in **Table 2** manifest a generally rising trend, but the pattern displayed in Congresses beginning with the 108th (2003-2004) is sharply distinct from that of earlier ones. From the 90th through the 107th Congress (1967-2002), cloture was only once (103rd Congress, 1993-1994) sought on more than five nominations. In the five Congresses from the 108th through the 113th (2003-2013), by contrast, cloture was only once (110th Congress, 2007-2008) sought on fewer than 14 nominations.

The 103rd, 107th, and 111th Congresses were each the first of a new presidential Administration, so that the number of nominations to be considered was presumably large. Nevertheless, the new level of nominations with cloture attempts that was reached in the 103rd Congress remained exceptional until the 108th Congress, but the pattern of activity from then on has increasingly come to make the 103rd Congress look like a forerunner of practices that became typical. It is also pertinent, however, that the President's party had a Senate majority in the six Congresses before

[13] Committee on Rules and Administration, *Senate Cloture Rule*, pp. 29-31, 60, 199-208.

2014 in which cloture was sought on 12 or more nominations.[14] This pattern suggests that highly controversial nominations may now be more likely to be brought to the Senate floor if it is the President's party that can set the agenda.

**Table 2. Nominations on Which Cloture Was Moved and Rejected, by Time Period, 1949-November 20, 2013**

| | Nominations on Which Cloture Was: | | | |
|---|---|---|---|---|
| | Moved | | Rejected | |
| Congresses (years) | Number | Average per Congress | Number | *Percentage of Moved* |
| 81st-89th (1949-1966) | 0 | 0.0 | 0 | — |
| 90th-102nd (1967-1992) | 12 | 0.9 | 2 | *17%* |
| 103rd (1993-1994) | 12 | 12 | 3 | *25%* |
| 104th-107th (1995-2002) | 11 | 2.8 | 2 | *18%* |
| 108th (2003-2004) | 14 | 14 | 11 | *79%* |
| 109th (2005-2006) | 18 | 18 | 2 | *11%* |
| 110th (2007-2008) | 1 | 1 | 0 | *0%* |
| 111th (2009-2010) | 21 | 21 | 2 | *10%* |
| 112th (2011-2012) | 33 | 33 | 5 | *15%* |
| 113th (through November 20, 2013) | 21 | — | 1 | *5%* |

**Source:** Compiled from data in **Table 6**. The table does not include four failed cloture attempts on four nominations that occurred prior to November 21, 2013, because subsequent successful cloture votes were held on all four nominations after the reinterpretation of the rule.

In the 108th Congress (2003-2004), the pattern of Senate action on nominations on which cloture was sought displayed several distinctive features. This was the Congress during which extensive contestation occurred over attempts to secure confirmation for a series of judicial nominations by President George W. Bush, and the prospect arose that an attempt would be made to change Senate rules for considering nominations through proceedings (known as the "nuclear" or "constitutional option") that would not require supermajority support.[15]

The maximum number of cloture motions offered on any single nomination was markedly higher in the 108th Congress. Only three times previously had as many as three cloture motions been offered on a single nomination,[16] and only four times subsequently have as many as two cloture

[14] The six Congresses in question are the 103rd, 108th, 109th, 111th, 112th, and 113th. The Republican Party lost control of the Senate during the first session of the 107th Congress in 2001, at the beginning of the first term of President George W. Bush.

[15] For discussions of the possibilities for such proceedings, see CRS Report R42929, *Procedures for Considering Changes in Senate Rules*, by Richard S. Beth, and CRS Report RL32843, *"Entrenchment" of Senate Procedure and the "Nuclear Option" for Change: Possible Proceedings and Their Implications*, by Richard S. Beth.

[16] The three nominations were those of Don Zimmerman to be member of the National Labor Relations Board in 1980; William A. Lubbers to be its general counsel in the same year; and Sam Brown, the former antiwar activist, to be ambassador during his tenure as head of delegation to the Conference on Security and Cooperation in Europe in 1994. Only in the third case was cloture ultimately rejected and the nomination not confirmed.

motions been offered on the same nomination.[17] In the 108th Congress, by contrast, one nomination was subjected to seven cloture motions and another to four.[18] These events suggest the intensity with which supporters of these nominations were attempting to secure Senate votes thereon. The pattern from that time until the reinterpretation of the rule, by contrast, suggests that Senate leaders became less willing to invest extensive floor time on attempts to secure confirmation for nominations that did not command sufficient support for cloture.

The Senate in the 108th Congress also rejected cloture with much greater frequency on nominations on which it was moved. In that Congress the Senate ultimately voted against cloture on more than three-quarters of such nominations, which suggests that opponents were persisting in contesting those nominations much more intensely than was otherwise the case. In all other Congresses (or, when cloture was attempted on only a few nominations in each of several consecutive Congresses, as shown in **Table 2**, in the group of consecutive Congresses as a whole), the Senate ultimately voted against cloture on no more than one-quarter of the nominations in question. This finding reflects the observation offered earlier that only a few nominations have been blocked by failure to obtain cloture.

# Positions in Relation to Which Cloture Was Sought

Over the full period under examination, as shown by **Table 3**, cloture action occurred on nominations to positions in the judiciary and in the executive branch in roughly comparable numbers. Until the 111th Congress, however, a majority of the nominations on which cloture was sought were to positions on the federal bench. This circumstance perhaps reflected the Senate's traditional inclination to grant the President wide latitude in selecting officials to serve under him in executive branch positions.[19]

More generally, however, the relative emphasis on nominations to positions in the two branches has shifted sharply from one Congress to another. In both of the periods identified in **Table 3** that cover several consecutive Congresses, as well as in the 108th Congress (2003-2004) and the 112th Congress (2011-2012), nominations to judicial positions were the main focus of cloture action. In the 103rd (1993-1994), 109th (2005-2006), 111th (2009-2010), and 113th (through November 21, 2013) Congresses, cloture motions on executive branch nominations were more prevalent. It is perhaps pertinent that the 103rd and 111th Congresses both included the period immediately following the inauguration of a new President, when presumably there were a large number of nominations to positions in the new Administration.

As already observed, the only period during which cloture attempts on either class of nominations were rejected far more often than they were either invoked or abandoned occurred in connection with the broad struggle over President George W. Bush's judicial nominations in the 108th Congress (2003-2004).

[17] The four nominations were those of John R. Bolton to be U.S. representative to the United Nations in 2005, Mari Carmen Aponte to be ambassador to El Salvador in 2011, Mark Gaston Pearce to be a member of the National Labor Relations Board in 2013, and Charles Timothy Hagel to be Secretary of Defense in 2013. Only in the first case was cloture ultimately rejected and the nomination not confirmed.

[18] The two nominations were, respectively, those of Miguel A. Estrada and Priscilla Richman Owen to be Circuit Court Judges. In both cases, cloture was ultimately rejected and the nomination not confirmed.

[19] This point is discussed, for example, in Michael J. Gerhardt, *The Federal Appointments Process: A Constitutional and Historical Analysis* (Durham: Duke University Press, 2003), pp. 132-133.

**Table 3. Cloture Action on Judicial and Executive Nominations, by Time Period, 1967-November 20, 2013**

| | Judicial | | | | Executive | | | |
|---|---|---|---|---|---|---|---|---|
| **Congresses and (years)** | **Total** | **Cloture Invoked** | **Cloture Withdrawn, Vitiated, or Fell[a]** | **Cloture Rejected** | **Total** | **Cloture Invoked** | **Cloture Withdrawn, Vitiated, or Fell[a]** | **Cloture Rejected** |
| 90th-102nd (1967-1992) | **8** | 5 | 1 | 2 | **4** | 4 | 0 | 0 |
| 103rd (1993-1994) | **2** | 1 | 1 | 0 | **10** | 3 | 4 | 3 |
| 104th-107th (1995-2002) | **7** | 5 | 1 | 1 | **4** | 3 | 0 | 1 |
| 108th (2003-2004) | **12** | 0 | 2 | 10 | **2** | 0 | 1 | 1 |
| 109th (2005-2006) | **6** | 6 | 0 | 0 | **12** | 3 | 7 | 2 |
| 110th (2007-2008) | **1** | 1 | 0 | 0 | **0** | 0 | 0 | 0 |
| 111th (2009-2010) | **5** | 2 | 3 | 0 | **16** | 8 | 6 | 2 |
| 112th (2011-20112) | **26** | 3 | 20 | 3 | **7** | 2 | 3 | 2 |
| 113th (through November 20, 2013) | **2** | 0 | 1 | 1 | **19** | 13 | 6 | 0 |
| **Total** | **69** | **23** | **29** | **17** | **74** | **36** | **27** | **11** |

**Source:** Compiled from data in **Table 6.** The table does not include four failed cloture attempts on four nominations that occurred prior to November 21, 2013, because subsequent successful cloture votes were held on all four nominations after the reinterpretation of the rule.

a. This column counts only nominations on which no cloture motion received a vote. *Withdrawn* and *vitiated* mean that the Senate disregarded the cloture motion, and took no further action on it. *Fell* means that the cloture motion received no vote because it became moot.

On executive branch nominations in the 109th (2005-2006) and 111th (2009-2010) Congresses, on the other hand, either cloture was invoked, or no vote occurred, in especially high proportions. On an especially high proportion of judicial nominations on which cloture was attempted in the 112th Congress (2011-2012), no cloture votes ultimately occurred, suggesting that cloture might have been moved on many of these nominations in response to perceived threats of filibuster that did not materialize or, perhaps, that proved susceptible of negotiated resolution.

Few of the nominations on which cloture was attempted prior to the reinterpretation of the cloture rule were to positions of the first rank in the federal government. Only 4 have been to the Supreme Court, as shown in **Table 4**, and only 11 to head Cabinet departments or to other positions sometimes accorded Cabinet rank by the President, as shown in **Table 5.** In relation to offices at lower levels of the executive branch, it can be discerned from **Table 6** that cloture attempts have occurred particularly often on nominations to positions in the Department of State and the Department of Justice.

**Table 4. Supreme Court Nominations with Cloture Attempts**

Through November 20, 2013

| Date | Nominee | Position |
|---|---|---|
| 1968 | Abe Fortas | Chief Justice |
| 1971 | William H. Rehnquist | Associate Justice |
| 1986 | William H. Rehnquist | Chief Justice |
| 2006 | Samuel L. Alito | Associate Justice |

**Source:** Compiled from data in **Table 6.**

**Table 5. "Cabinet Rank" Nominations with Cloture Attempts**

Through November 20, 2013

| Date | Nominee | Position[a] |
|---|---|---|
| 1987 | C. William Verity | Secretary of Commerce |
| 2003 | Michael O. Leavitt | Administrator, Environmental Protection Agency |
| 2005 | John R. Bolton | U.S. Representative to the United Nations |
| 2005 | Stephen L. Johnson | Administrator, Environmental Protection Agency |
| 2005 | Robert J. Portman | U.S. Trade Representative |
| 2006 | Dirk Kempthorne | Secretary of the Interior |
| 2009 | Hilda Solis | Secretary of Labor |
| 2013 | Samantha Power | U.S. Representative to the United Nations |
| 2013 | Thomas Edgar Perez | Secretary of Labor |
| 2013 | Regina McCarthy | Administrator, Environmental Protection Agency |
| 2013 | Charles Timothy Hagel | Secretary of Defense |

**Source:** Compiled from data in **Table 6.**

a. Includes heads of Cabinet departments and other positions that have sometimes been accorded Cabinet rank by the President.

## Table 6. Nominations with Cloture Attempts Through November 20, 2013

| Congress and Year | Nominee | Position | Number of Cloture Attempts[a] | Final Outcome of Cloture Action[b] | Disposition of Nomination[c] |
|---|---|---|---|---|---|
| *90th, 1968* | *Abe Fortas* | *Chief Justice* | *1* | ***rejected, 45-43*** | ***withdrawn*** |
| *92nd, 1971* | *William H. Rehnquist* | *Associate Justice* | *2* | ***rejected, 52-42*** | *confirmed, 68-26* |
| 96th, 1980 | William A. Lubbers | General Counsel, National Labor Relations Board | 3 | invoked, 62-34 | confirmed, 57-39 |
| 96th, 1980 | Don Zimmerman | Member, National Labor Relations Board | 3 | invoked, 63-31 | confirmed, 68-27 |
| *96th, 1980* | *Stephen G. Breyer* | *Circuit Judge* | *2* | *invoked, 68-28* | *confirmed, 80-11* |
| *98th, 1984* | *J. Harvie Wilkinson* | *Circuit Judge* | *2* | *invoked, 65-32* | *confirmed, 58-39* |
| *99th, 1986* | *Sidney A. Fitzwater* | *District Judge* | *1* | *invoked, 64-33* | *confirmed, 52-42* |
| *99th, 1986* | *Daniel A. Manion* | *Circuit Judge* | *1* | *withdrawn* | *confirmed, 48-46* |
| *99th, 1986* | *William H. Rehnquist* | *Chief Justice* | *1* | *invoked, 68-31* | *confirmed, 65-33* |
| 100th, 1987 | Melissa Wells | Ambassador | 1 | invoked, 64-24 | confirmed, 64-24 |
| 100th, 1987 | C. William Verity | Secretary of Commerce | 1 | invoked, 85-8 | confirmed, 84-11 |
| *102nd, 1992* | *Edward Earl Carnes, Jr.* | *Circuit Judge* | *1* | *invoked, 66-30* | *confirmed, 62-36* |
| 103rd, 1993 | Walter Dellinger | Assistant Attorney General | 2 | **rejected, 59-39** | confirmed, 65-34 |
| 103rd, 1993 | Daniel L. Spiegel[d]<br>Thomas A. Loftus[d]<br>Swanee G. Hunt[d]<br>Tobi T. Gati[d]<br>Alan J. Blinken[d] | State Department | 2 | **rejected, 58-42** | confirmed, voice |
| 103rd, 1993 | Janet Napolitano | U.S. Attorney | 1 | invoked, 72-26 | confirmed, voice |
| 103rd, 1994 | M. Larry Lawrence | Ambassador | 1 | fell | confirmed, 79-16 |
| *103rd, 1994* | *Rosemary Barkett* | *Circuit Judge* | *1* | *withdrawn* | *confirmed, 61-37* |
| 103rd, 1994 | Sam Brown | Ambassador | 3 | **rejected, 56-42** | **no final vote** |
| 103rd, 1994 | Derek Shearer | Ambassador | 2 | invoked, 62-36 | confirmed, 67-31 |

| Congress and Year | Nominee | Position | Number of Cloture Attempts[a] | Final Outcome of Cloture Action[b] | Disposition of Nomination[c] |
|---|---|---|---|---|---|
| 103rd, 1994 | Ricki Tigert | Board Member and Chair, Federal Deposit Insurance Corporation[e] | 2 | invoked, 63-32 | confirmed, 90-7 |
| *103rd, 1994* | *H. Lee Sarokin* | *Circuit Judge* | *1* | *invoked, 85-12* | *confirmed, 63-35* |
| 103rd, 1994 | Buster Glosson | Air Force Lieutenant General (retired) | 1 | withdrawn | confirmed, 59-30 |
| 103rd, 1994 | Claude Bolton, Jr. | Air Force Brigadier General | 1 | vitiated | confirmed, voice |
| 103rd, 1994 | Edward P. Barry, Jr. | Air Force Lieutenant General (retired) | 1 | vitiated | confirmed, voice |
| 104th, 1995 | Henry Foster | Surgeon General | 2 | **rejected, 57-43** | **no final vote** |
| 105th, 1997 | Joel I. Klein | Assistant Attorney General | 1 | invoked, 78-11 | confirmed, 88-12 |
| 105th, 1998 | David Satcher | Surgeon General | 1 | invoked, 75-23 | confirmed, 63-35 |
| *106th, 1999* | *Brian Theadore Stewart* | *District Judge* | *1* | ***rejected, 55-44*** | *confirmed, 93-5* |
| *106th, 2000* | *Marsha L. Berzon* | *Circuit Judge* | *1* | *invoked, 86-13* | *confirmed, 64-34* |
| *106th, 2000* | *Richard A. Paez* | *Circuit Judge* | *1* | *invoked, 85-14* | *confirmed, 59-39* |
| *107th, 2002* | *Lavenski R. Smith* | *Circuit Judge* | *1* | *invoked, 94-3* | *confirmed, voice* |
| *107th, 2002* | *Richard R. Clifton* | *Circuit Judge* | *1* | *invoked, 97-1* | *confirmed, 98-0* |
| 107th, 2002 | Richard H. Carmona | Surgeon General | 1 | invoked, 98-0 | confirmed, voice |
| *107th, 2002* | *Julia Smith Gibbons* | *Circuit Judge* | *1* | *invoked, 89-0* | *confirmed, 95-0* |
| *107th, 2002* | *Dennis W. Shedd* | *Circuit Judge* | *1* | *vitiated* | *confirmed, 55-44* |
| *108th, 2003* | *Victor J. Wolski* | *Judge, Court of Claims* | *1* | *vitiated* | *confirmed, 54-43* |
| *108th, 2003* | *Miguel A. Estrada* | *Circuit Judge* | *7* | ***rejected, 55-43*** | ***withdrawn*** |
| 108th, 2003 | Michael O. Leavitt | Administrator, Environmental Protection Agency | 1 | withdrawn | confirmed, 88-8 |
| *108th, 2003* | *Charles W. Pickering, Sr.* | *Circuit Judge* | *1* | ***rejected, 54-43*** | ***no final vote*** |
| *108th, 2003* | *William H. Pryor, Jr.* | *Circuit Judge* | *2* | ***rejected, 51-43*** | ***no final vote*** |
| *108th, 2003* | *Priscilla Richman Owen* | *Circuit Judge* | *4* | ***rejected, 53-42*** | ***no final vote*** |
| *108th, 2003* | *Carolyn B. Kuhl* | *Circuit Judge* | *2* | ***rejected, 53-43*** | ***no final vote*** |

| Congress and Year | Nominee | Position | Number of Cloture Attempts[a] | Final Outcome of Cloture Action[b] | Disposition of Nomination[c] |
|---|---|---|---|---|---|
| *108th, 2003* | *Janice R. Brown* | *Circuit Judge* | *1* | ***rejected, 53-43*** | ***no final vote*** |
| 108th, 2003 | Thomas C. Dorr | Undersecretary of Agriculture and Board Member, Commodity Credit Corporation[e] | 2 | **rejected, 57-39** | **no final vote** |
| *108th, 2004* | *Marcia G. Cooke* | *District Judge* | *1* | *withdrawn* | *confirmed, 96-0* |
| *108th, 2004* | *William Gerry Myers III* | *Circuit Judge* | *1* | ***rejected, 53-44*** | ***no final vote*** |
| *108th, 2004* | *David W. McKeague* | *Circuit Judge* | *1* | ***rejected, 53-44*** | ***no final vote*** |
| *108th, 2004* | *Henry W. Saad* | *Circuit Judge* | *1* | ***rejected, 52-46*** | ***no final vote*** |
| *108th, 2004* | *Richard A. Griffin* | *Circuit Judge* | *1* | ***rejected, 54-44*** | ***no final vote*** |
| 109th, 2005 | Thomas C. Dorr | Undersecretary of Agriculture | 1 | withdrawn | confirmed, 62-38 |
| *109th, 2005* | *Priscilla Richman Owen* | *Circuit Judge* | *1* | *invoked, 81-18* | *confirmed, 55-43* |
| *109th, 2005* | *William H. Pryor, Jr.* | *Circuit Judge* | *1* | *invoked, 67-32* | *confirmed, 53-45* |
| *109th, 2005* | *Janice R. Brown* | *Circuit Judge* | *1* | *invoked, 65-32* | *confirmed, 56-43* |
| 109th, 2005 | John R. Bolton | U.S. Representative to the United Nations | 2 | **rejected, 54-38** | **no final vote** |
| 109th, 2005 | Stephen L. Johnson | Administrator, Environmental Protection Agency | 1 | invoked, 61-37 | confirmed, voice |
| 109th, 2005 | Robert J. Portman | U.S. Trade Representative | 1 | vitiated | confirmed, voice |
| 109th, 2006 | Peter Cyril Wyche Flory | Assistant Secretary of Defense | 1 | **rejected, 52-41** | **no final vote** |
| 109th, 2006 | Gordon England | Deputy Secretary of Defense | 1 | withdrawn | confirmed, voice |
| 109th, 2006 | Eric S. Edelman | Under Secretary of Defense | 1 | withdrawn | confirmed, voice |
| 109th, 2006 | Benjamin A. Powell | General Counsel, Office of the Director of National Intelligence | 1 | withdrawn | confirmed, voice |
| 109th, 2006 | Richard Stickler | Assistant Secretary of Labor | 1 | withdrawn | **no final vote** |
| 109th, 2006 | Dorrance Smith | Assistant Secretary of Defense | 1 | withdrawn | confirmed, 59-34 |
| *109th, 2006* | *Samuel A. Alito, Jr.* | *Associate Justice, Supreme Court* | *1* | *invoked, 72-25* | *confirmed, 58-42* |
| *109th, 2006* | *Brett M. Kavanaugh* | *Circuit Judge* | *1* | *invoked, 67-30* | *confirmed, 57-36* |
| 109th, 2006 | Andrew von Eschenbach | Commissioner, Food and Drug Administration | 1 | invoked, 89-6 | confirmed, 80-11 |

| Congress and Year | Nominee | Position | Number of Cloture Attempts[a] | Final Outcome of Cloture Action[b] | Disposition of Nomination[c] |
|---|---|---|---|---|---|
| 109th, 2006 | Dirk Kempthorne | Secretary of the Interior | 1 | invoked, 85-8 | confirmed, voice |
| *109th, 2006* | *Kent A. Jordan* | *Circuit Judge* | *1* | *invoked, 93-0* | *confirmed, 91-0* |
| *110th, 2007* | *Leslie Southwick* | *Circuit Judge* | *1* | *invoked, 62-35* | *confirmed, 59-38* |
| 111th, 2009 | Hilda Solis | Secretary of Labor | 1 | withdrawn | confirmed, 80-17 |
| 111th, 2009 | Austan Dean Goolsbee | Member, Council of Economic Advisers | 1 | withdrawn | confirmed, UC |
| 111th, 2009 | Cecilia Elena Rouse | Member, Council of Economic Advisers | 1 | withdrawn | confirmed, UC |
| 111th, 2009 | David W. Ogden | Deputy Attorney General | 1 | withdrawn | confirmed, 65-28 |
| 111th, 2009 | Christopher R. Hill | U.S. Ambassador to Iraq | 1 | invoked, 73-17 | confirmed, 73-23 |
| 111th, 2009 | Cass R. Sunstein | Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget | 1 | invoked, 63-35 | confirmed, 57-40 |
| 111th, 2009 | David J. Hayes | Deputy Secretary of the Interior | 1 | **rejected, 57-39** | confirmed, UC |
| 111th, 2009 | Robert M. Groves | Director of the Census, Department of Commerce | 1 | invoked, 76-15 | confirmed, voice |
| 111th, 2009 | Harold Hongju Koh | Legal Advisor, Department of State | 1 | invoked, 65-31 | confirmed, 62-35 |
| 111th, 2009 | William K. Sessions III | Chair, United States Sentencing Commission | 1 | withdrawn | confirmed, UC |
| *111th, 2009* | *David F. Hamilton* | *Circuit Judge* | *1* | *invoked, 70-29* | *confirmed, 59-39* |
| 111th, 2010 | Ben S. Bernanke | Chairman, Board of Governors, Federal Reserve System | 1 | invoked, 77-23 | confirmed, 70-30 |
| 111th, 2010 | M. Patricia Smith | Solicitor, Department of Labor | 1 | invoked, 60-32 | confirmed, 60-37 |
| 111th, 2010 | Martha N. Johnson | Administrator, General Services Administration | 1 | invoked, 82-16 | confirmed, 96-0 |
| *111th, 2010* | *Barbara Milano Keenan* | *Circuit Judge* | *1* | *invoked, 99-0* | *confirmed, 99-0* |
| 111th, 2010 | Lael Brainard | Under Secretary, Treasury Department | 1 | invoked, 84-10 | confirmed, 78-19 |
| *111th, 2010* | *Marisa J. Demeo* | *Associate Judge, Superior Court, District of Columbia* | *1* | *withdrawn* | *confirmed, 66-32* |
| *111th, 2010* | *Thomas J. Vanaskie* | *Circuit Judge* | *1* | *withdrawn* | *confirmed, 77-20* |
| 111th, 2010 | Christopher H. Schroeder | Assistant Attorney General | 1 | withdrawn | confirmed, 72-24 |
| *111th, 2010* | *Denny Chin* | *Circuit Judge* | *1* | *withdrawn* | *confirmed, 98-0* |

| Congress and Year | Nominee | Position | Number of Cloture Attempts[a] | Final Outcome of Cloture Action[b] | Disposition of Nomination[c] |
|---|---|---|---|---|---|
| 111th, 2010 | Craig Becker | Member, National Labor Relations Board | 1 | **rejected, 52-33** | **no final vote** |
| 112th, 2011 | Richard Cordray | Director, Bureau of Consumer Financial Protection | 1 | **rejected, 53-45** | **no final vote** |
| 112th, 2011 | Mari Carmen Aponte | Ambassador | 2 | invoked, 62-37 | confirmed, voice |
| 112th, 2011 | Norman L. Eisen | Ambassador | 1 | invoked, 70-16 | confirmed, voice |
| 112th, 2011 | Donald B. Verrilli | Solicitor General | 1 | withdrawn | confirmed, 72-16 |
| 112th, 2011 | James Michael Cole | Deputy Attorney General | 1 | **rejected, 50-40** | confirmed, 55-42 |
| *112th, 2011* | *John J. McConnell, Jr.* | *District Judge* | *1* | *invoked, 63-33* | *confirmed, 50-44* |
| *112th, 2011* | *Caitlin Joan Halligan* | *Circuit Judge* | *1* | ***rejected, 54-45*** | ***no final vote*** |
| *112th, 2011* | *Goodwin Liu* | *Circuit Judge* | *1* | ***rejected, 52-43*** | ***withdrawn*** |
| *112th, 2012* | *Jesse M. Furman* | *District Judge* | *1* | *withdrawn* | *confirmed, 62-34* |
| *112th, 2012* | *Adalberto Jose Jordan* | *Circuit Judge* | *1* | *invoked, 89-5* | *confirmed, 94-5* |
| 112th, 2012 | Jerome H. Powell | Board of Governors, Federal Reserve System | 1 | withdrawn | confirmed, 74-21 |
| 112th, 2012 | Jeremy C. Stein | Board of Governors, Federal Reserve System | 1 | withdrawn | confirmed, 70-24 |
| *112th, 2012* | *Michael A. Shipp* | *District Judge* | *1* | *withdrawn* | *confirmed, 91-1* |
| *112th, 2012* | *Robert E. Bacharach* | *Circuit Judge* | *1* | ***rejected, 56-34*** | ***no final vote*** |
| *112th, 2012* | *Timothy S. Hillman* | *District Judge* | *1* | *withdrawn* | *confirmed, 88-1* |
| *112th, 2012* | *John J. Tharp, Jr.* | *District Judge* | *1* | *withdrawn* | *confirmed, 86-1* |
| *112th, 2012* | *George Levi Russell, III* | *District Judge* | *1* | *withdrawn* | *confirmed, voice* |
| *112th, 2012* | *John Z. Lee* | *District Judge* | *1* | *withdrawn* | *confirmed, voice* |
| *112th, 2012* | *Kristine Gerhard Baker* | *District Judge* | *1* | *withdrawn* | *confirmed, voice* |
| *112th, 2012* | *Andrew David Hurwitz* | *Circuit Judge* | *1* | *invoked, 60-31* | *confirmed, voice* |
| *112th, 2012* | *Paul J. Watford* | *Circuit Judge* | *1* | *withdrawn* | *confirmed, 61-34* |
| *112th, 2012* | *Brian C. Wimes* | *District Judge* | *1* | *withdrawn* | *confirmed, 92-1* |

| Congress and Year | Nominee | Position | Number of Cloture Attempts[a] | Final Outcome of Cloture Action[b] | Disposition of Nomination[c] |
|---|---|---|---|---|---|
| *112th, 2012* | *David Campos Guaderrama* | *District Judge* | *1* | *withdrawn* | *confirmed, voice* |
| *112th, 2012* | *Gregg Jeffrey Costa* | *District Judge* | *1* | *withdrawn* | *confirmed, 97-2* |
| *112th, 2012* | *Gina Marie Groh* | *District Judge* | *1* | *withdrawn* | *confirmed, 95-2* |
| *112th, 2012* | *David Nuffer* | *District Judge* | *1* | *withdrawn* | *confirmed, 96-2* |
| *112th, 2012* | *Michael Walter Fitzgerald* | *District Judge* | *1* | *withdrawn* | *confirmed, 91-6* |
| *112th, 2012* | *Ronnie Abrams* | *District Judge* | *1* | *withdrawn* | *confirmed, 96-2* |
| *112th, 2012* | *Rudolph Contreras* | *District Judge* | *1* | *withdrawn* | *confirmed, voice* |
| *112th, 2012* | *Miranda Du* | *District Judge* | *1* | *withdrawn* | *confirmed, 59-39* |
| *112th, 2012* | *Susie Morgan* | *District Judge* | *1* | *withdrawn* | *confirmed, 96-1* |
| *112th, 2012* | *Jeffrey J. Helmick* | *District Judge* | *1* | *withdrawn* | *confirmed, 62-36* |
| *112th, 2012* | *Mary Geiger Lewis* | *District Judge* | *1* | *withdrawn* | *confirmed, 64-29* |
| 113th, 2013 | Richard F. Griffin, Jr | General Counsel, National Labor Relations Board | 1 | invoked, 62-37 | confirmed, 55-44 |
| 113th, 2013 | Nancy Jean Schiffer | Member, National Labor Relations Board | 1 | invoked, 65-33 | confirmed, 54-44 |
| 113th, 2013 | Kent Yoshiho Hirozawa | Member, National Labor Relations Board | 1 | invoked, 64-34 | confirmed, 54-44 |
| 113th, 2013 | James B. Comey, Jr | Director, Federal Bureau of Investigation | 1 | withdrawn | confirmed, 93-1 |
| 113th, 2013 | Samantha Power | U.S. Representative to the United Nations | 1 | withdrawn | confirmed, 87-10 |
| 113th, 2013 | Katherine Archuleta | Director, Office of Personnel Management | 1 | invoked, 81-18 | confirmed, 62-35 |
| 113th, 2013 | Thomas Edgar Wheeler | Member, Federal Communications Commission | 1 | fell | confirmed, UC |
| 113th, 2013 | Mark Gaston Pearce | Member, National Labor Relations Board | 2 | invoked, 69-29 | confirmed, 59-38 |
| 113th, 2013 | Fred P. Hochberg | President, Export-Import Bank | 1 | invoked, 82-18 | confirmed, 82-17 |
| 113th, 2013 | Thomas Edward Perez | Secretary of Labor | 1 | invoked, 60-40 | confirmed, 54-46 |
| 113th, 2013 | Regina McCarthy | Administrator, Environmental Protection Agency | 1 | invoked, 69-31 | confirmed, 59-40 |
| 113th, 2013 | Sharon Block | Member, National Labor Relations Board | 1 | **withdrawn** | **withdrawn** |

| Congress and Year | Nominee | Position | Number of Cloture Attempts[a] | Final Outcome of Cloture Action[b] | Disposition of Nomination[c] |
|---|---|---|---|---|---|
| 113th, 2013 | Richard F. Griffin, Jr | Member, National Labor Relations Board | 1 | **withdrawn** | **withdrawn** |
| 113th, 2013 | Richard Cordray | Director, Bureau of Consumer Financial Protection | 1 | invoked, 71-29 | confirmed, 66-34 |
| 113th, 2013 | Byron Todd Jones | Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives | 1 | invoked, 60-40 | confirmed, 53-42 |
| 113th, 2013 | John Owen Brennan | Director, Central Intelligence Agency | 1 | invoked 81-16 | confirmed, 63-34 |
| 113th, 2013 | Jacob J. Lew | Governor, International Monetary Fund; Governor, International Bank for Reconstruction and Development; Governor, Inter-American Development Bank; Governor, European Bank for Reconstruction and Development | 1 | withdrawn | confirmed, voice |
| 113th, 2013 | Alan F. Estevez | Principal Deputy Under Secretary of Defense | 1 | invoked, 91-9 | confirmed, voice |
| 113th, 2013 | Charles Timothy Hagel | Secretary of Defense | 2 | invoked, 71-27 | confirmed, 58-41 |
| *113th, 2013* | *Srikanth Srinivasan* | *Circuit Judge* | *1* | *withdrawn* | *confirmed, 97-0* |
| *113th, 2013* | *Caitlin Joan Halligan* | *Circuit Judge* | *1* | ***rejected, 51-41*** | ***withdrawn*** |

**Source:** Compilations by CRS and Senate Library; Legislative Information System of the U.S. Congress; U.S. Congress, Senate, Committee on Rules and Administration, *Senate Cloture Rule*, committee print 99-95, 99th Congress, 1st session (Washington: GPO, 1985), pp. 44-70, 78-85; *Congressional Record* (Daily Digest); and *Congressional Quarterly Almanac* for 1986, 1987, 1992, 1995, 1999.

**Notes:** Executive branch nominations in roman; judicial nominations in *italic*. Final outcome of cloture attempt in **bold** when cloture was rejected. Disposition of nomination is in **bold** when nominee was not confirmed. The table does not include four failed cloture attempts on four nominations that occurred prior to November 21, 2013, because subsequent successful cloture votes were held on all four nominations after the reinterpretation of the rule.

a. Includes both cloture motions filed and votes of the Senate to reconsider a cloture vote. Includes only attempts that occurred on nominations disposed of prior to November 21, 2013.

b. If more than one cloture vote occurred on a nomination, the tally displayed is that of the last such vote. The final outcome is given as *withdrawn*, *vitiated*, or *fell* only if no cloture vote occurred. *Withdrawn* and *vitiated* mean that the Senate disregarded the cloture motion and took no further action on it. *Fell* means that the cloture motion received no vote because it became moot.

c. Vote tally, if roll call vote; "voice" if voice vote; "UC" if by unanimous consent.

d. These five nominations to various positions in the State Department, which received consideration and cloture action concurrently, are counted as one case in this report.

e. The individual was nominated concurrently for the two positions specified, and cloture action took place on each nomination in turn. For each nominee, the report counts the actions on both nominations as one case.

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