

Confirmation of U.S. Circuit and District Court Nominations During Lame Duck Sessions of Congress (1946-2024)

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This Insight provides information and analysis related to U.S. circuit and district court nominations confirmed during lame duck sessions held by the Senate during the postwar period (i.e., since 1946). For the purpose of this Insight, a lame duck session is defined as any portion of a Congress's regular session that occurs after the general election in November but before the end of its constitutional term on January 3 of the next calendar year.

The primary purpose of lame duck sessions during this period was to [complete congressional action on legislation](#), including program authorizations and appropriations legislation (see [CRS Report R45154](#) for additional information about lame duck sessions of Congress).

Lame duck sessions held by the Senate have also been used to consider a President's judicial nominations. Of the 21 lame duck sessions held by the Senate during the postwar period, at least one U.S. circuit or district court nomination was confirmed in 16 (76%) of the sessions. These 16 lame duck sessions are reported in **Figure 1**.

During this same period, the Senate did not confirm any circuit or district court nominations during lame duck sessions held in 1948 ([80th Congress](#)), 1994 ([103rd Congress](#)), 2000 ([106th Congress](#)), 2008 ([110th Congress](#)), or 2016 ([114th Congress](#)). These sessions are *not* included in **Figure 1**.

Number Confirmed

As shown by **Figure 1**, the Senate confirmed a total of 22 circuit court nominations and 163 district court nominations during 16 lame duck sessions held from 1950 to 2024. The greatest number of circuit court nominations confirmed during a lame duck session was five, which occurred in 2010 at the end of the [111th Congress](#). The greatest number of district court nominations confirmed during a lame duck session was 27, which occurred in 2014 at the end of the [113th Congress](#).

At least half of the circuit and district court nominations confirmed during lame duck sessions since 1948 were confirmed during the three most recent past presidencies. Overall, 11 (50%) of the 22 circuit court

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nominations confirmed during lame duck sessions since 1948 were confirmed during seven of the eight lame duck sessions held since 2010, as were 97 (60%) of the 163 district court nominations.

The relatively high number of circuit and district court nominations confirmed during recent lame duck sessions coincides, in part, with the [reinterpretation of Senate Rule XXII](#) during the 113th Congress to allow cloture to be invoked on most nominations by a majority of Senators voting (a quorum being present), instead of by three-fifths of the Senate.

Figure 1. Lame Duck Sessions of Congress During Which U.S. Circuit or District Court Nominations Were Confirmed (1950-2024)

Election Year (Presidency)	Congress	Number Confirmed			Date of Last Confirmation		
		Circuit (C)	District (D)	Total	Circuit	District	
1950 (Truman)	81st			178	01/02/1951	01/02/1951	
1954 (Eisenhower)	83rd 			123	12/02/1954	12/02/1954	
1970 (Nixon)	91st			219	12/16/1970	12/19/1970	
1974 (Ford)	93rd			213	12/20/1974	12/20/1974	
1980 (Carter)	96th 			101	12/09/1980	n/a	
1982 (Reagan)	97th			055	n/a	12/21/1982	
2002 (G.W. Bush)	107th ¹ 			31720	11/19/2002	11/14/2002	
2004 (G.W. Bush)	108th			033	n/a	11/21/2004	
2006 (G.W. Bush)	109th 			101	12/08/2006	n/a	
2010 (Obama)	111th			51419	12/22/2010	12/22/2010	
2012 (Obama)	112th			01313	n/a	12/21/2012	
2014 (Obama)	113th 			02727	n/a	12/16/2014	
2018 (Trump)	115th			101	12/11/2018	n/a	
2020 (Trump)	116th ² 			11213	12/15/2020	12/20/2020	
2022 (Biden)	117th			31013	12/13/2022	12/08/2022	
2024 (Biden)	118th 			12122	11/18/2024	12/20/2024	
		22163185					
 Majority party control in the Senate changed in next Congress							
1. At the time of the general election on November 5, 2002, Democrats were the majority party in the Senate but, as the result of a special election to fill an unexpired Senate term, Republicans were the majority party from November 12, 2002, to January 2, 2003 (no reorganization was completed at the time).							
2. During the lame duck session in 2020, which began on November 9, 2020, and ended on January 3, 2021, the outcome of two Senate elections in Georgia were unresolved and it was unclear which party would be the majority party at the beginning of the 117th Congress.							

Source: Congressional Research Service.

Note: The Senate did not confirm any circuit or district court nominations during lame duck sessions held in 1948, 1994, 2000, 2008, or 2016. These sessions are not listed in **Figure 1**.

Type of Preceding Election

During this period, it was more common for circuit and district court nominations to be confirmed during lame duck sessions that followed midterm elections than presidential elections. Of the 22 circuit court nominations confirmed, 19 (86%) were confirmed during a lame duck session that followed a midterm election, while 3 (14%) were confirmed during a session that followed a presidential election. These three

nominees were [Stephen G. Breyer](#) (confirmed to the First Circuit in 1980), [Thomas L. Kirsch II](#) (confirmed to the Seventh Circuit in 2020), and [Embry J. Kidd](#) (confirmed to the Eleventh Circuit in 2024).

Of the 163 district court nominations confirmed, 114 (70%) were confirmed during a lame duck session that followed a midterm election, while 49 (30%) were confirmed during a session that followed a presidential election. Of the latter group of 49 nominees, 46 (94%) were confirmed during lame duck sessions that followed the 2012, 2020, and 2024 presidential elections.

When Nominations Were Submitted

During this period, it was more common for circuit and district court nominations confirmed during lame duck sessions to have been formally submitted by a President before an election than after it.

Of the 22 circuit court nominations confirmed, 15 (68%) were formally nominated before an election and 7 (32%) were nominated after the election. For the 15 nominations submitted prior to an election, the average number of days a nomination was first submitted prior to an election date was 245 days (8.1 months).

Of the 163 district court nominations confirmed, 127 (78%) were formally nominated before an election and 36 (22%) were nominated after the election. For the 127 nominations submitted prior to an election, the average number of days a nomination was first submitted prior to an election was 153 days (5.0 months).

When Nominations Were Confirmed

Circuit and district court nominations confirmed during lame duck sessions were confirmed, on average, 36 and 31 days, respectively, after election dates during this period. There have been instances, however, of shorter lengths of time from an election date to a nomination being confirmed. For example, during the lame duck session for the [107th Congress](#), there were 17 district court nominations confirmed by [voice vote](#) on November 14, 2002—nine days following the 2002 election.

Changes in Majority Party Control

The Senate has confirmed circuit and district court nominations during lame duck sessions which followed elections that led to a change in majority party control of the Senate in the next Congress. In the period covered by **Figure 1**, this occurred for the first time in 1954. As of this writing, it most recently occurred in 2024 during the lame duck session for the [118th Congress](#), when the Senate confirmed one circuit court nomination and 21 district court nominations.

Other Types of Judgeships

While not included within the scope of this Insight, the Senate has also confirmed judges to other types of federal courts during lame duck sessions held since 1946—including the [U.S. Court of International Trade](#), the [U.S. Court of Appeals for Veterans Claims](#), and the [U.S. Court of Federal Claims](#).

Since the [Twentieth Amendment](#) was ratified in 1933, which shortened the period of time from when a general election occurred to when Members-elect began their constitutional terms in office, there has not been, as of this writing, a Supreme Court Justice confirmed during a lame duck session of Congress. The most recent nominee confirmed during a lame duck session prior to the ratification of the Twentieth Amendment was [Harlan Fiske Stone](#)—who was confirmed on February 5, 1925, during the second session of the [68th Congress](#), which followed the election on November 4, 1924.

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