



**CONGRESSIONAL DISTRIBUTION MEMORANDUM**

November 21, 2013

**From:** Richard S. Beth (7-8667) and Elizabeth Rybicki (7-0644)  
Specialists on Congress and the Legislative Process

**Subject:** Nominations with Cloture Motions, 2009 to the present

**This memorandum is intended for distribution to more than one congressional office.**

---

This memorandum provides information on nominations that have been subject to cloture motions during the 113<sup>th</sup> Congress (through November 20, 2013). The table below presents information in the same format as Table 6 of CRS Report RL32878, *Cloture Attempts on Nominations: Data and Historical Development*, by Richard S. Beth, and can be used to update the data in that report. It also responds to multiple congressional inquiries for a comparison of cloture action taken on all nominations and cloture action taken on nominations submitted in the 111<sup>th</sup> (2009-2010), 112<sup>th</sup> (2011-2012) and 113<sup>th</sup> Congress (through November 20, 2013).

Although cloture was first adopted as a part of the Senate's Rules in 1917, it was not until 1949 that cloture could be moved on nominations. Since that time (as detailed in the cited report) cloture has been attempted on nominations a total of 168 times. This number includes both cloture motions filed and Senate agreements to reconsider<sup>1</sup> failed cloture votes on nominations. It does not include instances in which a motion to reconsider was entered, but never agreed to. Since 2009, 82 cloture motions have been proposed on nominations, and the Senate has held 41 votes on cloture on nominations.<sup>2</sup>

In brief, out of the 168 cloture motions ever filed (or reconsidered) on nominations, 82 (49%) were cloture motions on nominations made since 2009. For a discussion of the trends in increasing cloture

---

<sup>1</sup> Supporters of cloture sometimes enter a motion to reconsider a vote against cloture, so that a second vote on cloture can later occur without a second petition being filed. They can arrange for the second vote to take place at any point, as long as the Senate then agrees, first, to the motion to proceed to the motion to reconsider, and then to the motion to reconsider itself. Both motions are non-debatable under these circumstances and require only a simple majority vote. If the Senate agrees to the motion to reconsider, the new vote on the cloture motion then occurs immediately, and cloture is invoked if three-fifths of the full Senate now vote for it.

<sup>2</sup> Each of these votes is presented in either Table 6 of CRS Report RL32878 (for the 111<sup>th</sup> and 112<sup>th</sup> Congresses) or in Table 1 of this memorandum (for the 113<sup>th</sup> Congress), except for two cloture votes. In two instances since the 111<sup>th</sup> Congress, two cloture votes occurred on the same nomination, and only the tally of the last cloture vote appears in the tables. The Senate rejected a cloture motion on the nomination of Mari Carmen Aponte to be an Ambassador in the 112<sup>th</sup> Congress, 49-37, and later invoked cloture upon reconsideration. Similarly, in the 113<sup>th</sup> Congress the Senate rejected a cloture motion on the nomination of Charles Timothy Hagel to be Secretary of Defense, 58-40, and later invoked cloture upon reconsideration.

action on nominations that began prior to 2009, see the section, “Historical Development of Cloture Attempts on Nominations” in the CRS Report mentioned above.

**Table I. Nominations with Cloture Attempts**

113<sup>th</sup> Congress through November 20, 2013

| Nominee                      | Position   | Number of Cloture Attempts <sup>a</sup> | Final Outcome of Cloture Attempt <sup>b</sup> | Disposition of Nomination <sup>c</sup> |
|------------------------------|--|---|---|--|
| Richard F. Griffin, Jr.      | General Counsel, National Labor Relations Board  | 1                                       | invoked, 62-37                                | confirmed, 55-44                       |
| Nancy Jean Schiffer          | Member, National Labor Relations Board   | 1                                       | invoked, 65-33                                | confirmed, 54-44                       |
| Kent Yoshiho Hirozawa        | Member, National Labor Relations Board   | 1                                       | invoked, 64-34                                | confirmed, 54-44                       |
| James B. Comey, Jr.          | Director, Federal Bureau of Investigation  | 1                                       | withdrawn                                     | confirmed, 93-1                        |
| Samantha Power               | U.S. Representative to the United Nations  | 1                                       | withdrawn                                     | confirmed, 87-10                       |
| <i>Robert Leon Wilkins</i>   | <i>Circuit Judge</i>   | <i>1</i>                                | <i>rejected,</i>                              | <i>[pending]</i>                       |
| <i>Cornelia T.L. Pillard</i> | <i>Circuit Judge</i>   | <i>1</i>                                | <b>rejected, 56-41</b>                        | <i>[pending]</i>                       |
| <i>Patricia Ann Millett</i>  | <i>Circuit Judge</i>   | <i>1</i>                                | <b>rejected, 55-38</b>                        | <i>[pending]</i>                       |
| Katherine Archuleta          | Director, Office of Personnel Management   | 1                                       | invoked, 81-18                                | confirmed, 62-35                       |
| Thomas Edgar Wheeler         | Member, Federal Communications Commission  | 1                                       | fell  | confirmed, UC                          |
| Melvin L. Watt               | Director, Federal Housing Finance Agency   | 1                                       | <b>rejected, 56-41</b>                        | <i>[pending]</i>                       |
| Mark Gaston Pearce           | Member, National Labor Relations Board   | 2                                       | invoked, 69-29                                | confirmed, 59-38                       |
| Fred P. Hochberg             | President, Export-Import Bank  | 1                                       | invoked, 82-18                                | confirmed, 82-17                       |
| Thomas Edward Perez          | Secretary of Labor   | 1                                       | invoked, 60-40                                | confirmed, 54-46                       |
| Regina McCarthy              | Administrator, Environmental Protection Agency   | 1                                       | invoked, 69-31                                | confirmed, 59-40                       |
| Sharon Block                 | Member, National Labor Relations Board   | 1                                       | withdrawn                                     | withdrawn                              |
| Richard F. Griffin, Jr.      | Member, National Labor Relations Board   | 1                                       | withdrawn                                     | withdrawn                              |
| Richard Cordray              | Director, Bureau of Consumer Financial Protection  | 1                                       | invoked, 71-29                                | confirmed, 66-34                       |
| Byron Todd Jones             | Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives   | 1                                       | invoked, 60-40                                | confirmed, 53-42                       |
| John Owen Brennan            | Director, Central Intelligence Agency  | 1                                       | invoked, 81-16                                | confirmed, 63-34                       |
| 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 <sup>d</sup> | 1                                       | withdrawn                                     | confirmed, voice                       |
| Alan F. Estevez              | Principal Deputy Under Secretary of Defense  | 1                                       | invoked, 91-9                                 | confirmed, voice                       |
| Charles Timothy Hagel        | Secretary of Defense   | 2                                       | invoked, 71-27                                | confirmed, 58-41                       |
| <i>Srikanth Srinivasan</i>   | <i>Circuit Judge</i>   | <i>1</i>                                | <i>withdrawn</i>                              | <i>confirmed, 97-0</i>                 |

| Nominee                      | Position             | Number of Cloture Attempts <sup>a</sup> | Final Outcome of Cloture Attempt <sup>b</sup> | Disposition of Nomination <sup>c</sup> |
|------------------------------|----------------------|---|---|--|
| <i>Caitlin Joan Halligan</i> | <i>Circuit Judge</i> | 1                                       | <b>rejected, 51-41</b>                        | <b>withdrawn</b>                       |

**Source** and **Notes** appear on following page.

**Source:** Legislative Information System of the U.S. Congress.

**Notes:** Executive branch nominations in roman; judicial nominations in *italic*. Final outcome of cloture attempt is in **bold** when cloture was rejected. Disposition of nomination is in **bold** when nominee was not confirmed.

- a. Includes both cloture motions filed and agreements of the Senate to reconsider a cloture vote.
- 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” or “fell” only if no cloture vote occurred. “Withdrawn” means 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. The individual was nominated concurrently for the positions specified, and the Senate considered the nominations for all these positions concurrently. This memorandum considers Senate action on all the positions specified as one case.