



MEMORANDUM

May 20, 2011

To: Senator Tom Coburn

From: Maeve P. Carey, Analyst on Government Organization and Management, 7-7775
Henry B. Hogue, Analyst on American National Government, 7-0642

Subject: **Presidential Appointments and Nominations Data from the 111th and 112th Congresses**

This memorandum responds to your request for data on presidential appointments and nominations during the 111th Congress and the 112th Congress to date. Each component of your request is included in a separate section.

The first section of the memorandum provides an estimate of the number of advice and consent (PAS) positions in the executive branch. It also explains the methodology CRS used to come up with that estimate. The second section provides the total number of presidential nominations submitted in the 111th and 112th Congresses. The third section provides the number of confirmed nominations during these periods. The fourth section reports the number of nominations that were confirmed by voice vote or by roll call vote. The fifth section provides information on the duration of the Senate's consideration of nominees, looking at the average length of time from nomination to confirmation during the 111th and 112th Congresses. The sixth section provides information on how much time the Senate spent in quorum calls during two recent sessions. The seventh section deals with the duration of committee consideration of nominees, providing two pieces of information: the average length of time before a nominee receives a hearing, and the average length of time from receipt of nomination to committee reporting. Finally, the last section provides a breakdown by committee of nominees currently awaiting official committee action.

CRS obtained most of the information provided by using the data from the Legislative Information System's (LIS) nominations database.¹ LIS is available to the congressional community at <http://www.congress.gov/nomis/>. The data provided in this memorandum for the 112th Congress are current as of May 6, 2011.

As you requested, this memorandum includes nominations to executive branch positions only. Judicial nominations, including those to be judges, Supreme Court Justices, and members of the U.S. Sentencing Commission, are excluded.² Nominations to positions in the legislative branch (such as the Comptroller General and the Architect of the Capitol) are also excluded.³

¹ Most data for this memorandum were obtained by Bill Heniff Jr., CRS Analyst on Congress and the Legislative Process.

² The data in this report do include the U.S. marshals and attorneys, since those positions are part of the Department of Justice.

³ The data in this report do not include nominations to officer corps positions in the civilian uniformed services of the National Oceanic and Atmospheric Administration in the Department of Commerce; members of the Public Health Service in the Department of Health and Human Services; members of the officer corps in the military services; and some positions in the (continued...)

I. Total Number of Advice and Consent Positions

The first part of your request asked for the total number of advice and consent (PAS) positions. The CRS *estimate* of the number of PAS positions is 1,215. The methodology and sources used to arrive at this estimate are described below.

Methodology for Counting PAS Positions

CRS estimates of the total number of PAS positions are primarily based upon data published in various editions of a quadrennial committee print called *United States Government Policy and Supporting Positions*, commonly referred to as the *Plum Book*. The *Plum Book* is publicly available, widely used by scholars of the presidential appointments process, and is considered to be an authoritative government document. In addition, earlier editions of the *Plum Book* go back at least 50 years and allow for comparison of the number of PAS positions over time.

The *Plum Book* provides data on advice and consent positions and other policy-making positions, such as those filled by appointment of the President alone (PA positions), non-career senior executive service positions, and Schedule C positions. Although the *Plum Book* is considered to be an authoritative source for information about political appointments, it does contain mistakes. For example, some agencies are mistakenly shown as having PAS positions, while other agencies have PAS positions that are not included in the *Plum Book*. CRS reviewed the information in the *Plum Book* in an attempt to identify and correct these errors. However, it is possible that additional errors were not detected.⁴

In addition to the errors found in the *Plum Book*, other difficulties in identifying a specific number of PAS positions exist. For example, the Senate receives nominations from the President for confirmation for representatives of the United States to specific meetings of the United Nations, such as meetings of the General Assembly. Since these nominations represent the conferring of a title, rather than the nomination of an individual to a standing position, they are not included in the *Plum Book* and therefore are not included in the CRS estimate. The *Plum Book* and CRS do include chiefs of mission who serve as ambassadors to other countries.

Difficulty in Comparing Number of Positions with Number of Nominations and Confirmations

The remainder of this memorandum looks at data on presidential nominations and the Senate confirmation process. To find data on individual nominations to positions, CRS uses the Legislative Information System's (LIS) nominations database, available to the congressional community at <http://www.congress.gov/nomis/>. LIS reports all nominations the President submits to the Senate, including those nominations that are not attached to a standing position and are excluded from the *Plum Book* (such as the representatives to the meetings at the United Nations, which are discussed above). In other words, some nominations to positions excluded from the *Plum Book* are included in the data provided in the remainder of this memorandum. Therefore, the CRS estimate of the number of PAS positions provided in this section is not directly comparable to the total number of nominations and confirmations provided in the sections that follow.

(...continued)

Foreign Service.

⁴ It appears that the *Plum Book* also does not include some organizations in the executive branch.

II. Total Number of Presidential Nominations During the 111th and 112th Congresses

This section reports the number of presidential nominations requiring Senate confirmation during the 111th and 112th Congresses. The numbers we provide here are considered by CRS to be “distinct” nominations. A distinct nomination is defined as a nomination of a particular person to a specific position and term. Certain circumstances occasionally lead to the submission of duplicate nominations for the same individual to the same position. For example, the President sometimes nominates an individual to a position, withdraws the nomination due to an error, and then re-submits an almost-identical nomination.⁵ In other cases, the President may nominate an individual to a position, recess appoint the individual, then nominate the individual a second time to be consistent with a statutory requirement related to the pay of recess appointees.⁶ CRS reviewed the nominations for the 111th and 112th Congresses to remove any instances of duplicate nominations from the total number of nominations. The numbers provided below in **Table 1** exclude duplicate nominations.

Table 1. Number of Nominations to Executive Branch Positions in the 111th and 112th Congresses

Congress	Total Number of Distinct Nominations
111 th	964
112 th	174

Source: Congressional Research Service, using the Legislative Information System’s (LIS) nominations database.

Notes: Data for the 112th Congress are current as of May 6, 2011.

As shown in **Table 1**, during the 111th Congress, the President submitted 964 distinct nominations to executive branch positions. As of May 6, 2011, he submitted 174 nominations to executive branch positions in the 112th Congress.

III. Total Number of Confirmed Nominations in the 111th and 112th Congresses

This section provides information on the total number of confirmed nominations to executive branch positions in the 111th Congress and the 112th Congress to date.

⁵ For example, Harris D. Sherman was nominated on September 10, 2009, to serve as a Director of the Commodity Credit Corporation. The nomination was withdrawn 19 days later and another nomination was submitted immediately. Sherman’s home state on the original nomination was listed as California, but on the second nomination, it was listed as Colorado. In this case, the nomination appears to have been withdrawn due to that mistake. In that case, CRS only counted this as one “distinct” nomination.

⁶ See 5 U.S.C. § 5503.

Table 2. Number of Confirmations to Executive Branch Positions in the 111th and 112th Congresses

Congress	Number of Confirmations
111 th	843
112 th	27

Source: Congressional Research Service, using the Legislative Information System's (LIS) nominations database.

Notes: Data for the 112th Congress are current as of May 6, 2011.

As reported in **Table 2**, during the 111th Congress, there were 843 confirmations to executive branch positions. During the 112th Congress, as of May 6, 2011, there have been 27 confirmations to executive branch positions.

One important point to note is that the 111th Congress was the first Congress of a new presidency. As a result of the new administration, and particularly the fact that there was also a party turnover in the presidency, President Obama had many more positions to fill during the 111th Congress than he does during the 112th Congress. That makes comparing the total number of nominations across the 111th and 112th Congresses somewhat difficult.

IV. Number of Nominees Confirmed by Method of Confirmation

You also asked for information on the number of confirmations during the 111th and 112th Congresses by type of floor vote. Confirmation can occur with or without a recorded vote. If the vote is not a recorded (roll call) vote, it can be agreed to by unanimous consent or by voice vote. These two methods are often used interchangeably. The LIS nominations database does not appear to make a distinction between the two for the 111th and 112th Congresses. The nominations that were confirmed without a roll call vote are all recorded as a voice vote. As reported in **Table 3**, most executive branch nominations in these two Congresses were confirmed without a roll call vote.

It has been suggested by some that the type of vote, whether it be voice vote or roll call vote, can be indicative of the level of controversy associated with a nomination. However, the type of vote should not necessarily be considered an accurate representation of whether a vote is controversial.⁷

Table 3. Confirmations During the 111th and 112th Congresses by Type of Floor Vote

Congress	Confirmations Without a Roll Call Vote	Confirmations by Roll Call Vote
111 th	815	28
112 th	27	0

Source: Congressional Research Service, using the Legislative Information System's (LIS) nominations database.

Notes: Data for the 112th Congress are current as of May 6, 2011.

⁷ For more on this point relative to Supreme Court nominations in particular, see p. 19 of CRS Report RL33247, *Supreme Court Nominations: Senate Floor Procedure and Practice, 1789-2011*, by Richard S. Beth and Betsy Palmer.

Table 3 indicates that during the 111th Congress, 815 executive branch nominations were confirmed without a roll call vote. Another 28 nominations in that Congress were confirmed by roll call vote. As of May 6, 2011, 27 executive branch nominations had been confirmed in the 112th Congress. No executive branch nominations have been confirmed by a roll call vote in the 112th Congress as of May 6.

V. Average Length of Time Between Nomination and Confirmation

To compute the average (mean) length of time between nomination and confirmation for confirmed nominations, CRS used the LIS data to calculate the number of days elapsed from nomination to confirmation.⁸

As shown in **Table 4**, for the 111th Congress, the average time between the Senate's receipt of a nomination⁹ and confirmation of that nomination is 92.1 days, or approximately three months. For the 27 nominations confirmed during the 112th Congress as of May 6, 2011, the average time elapsed was 74.5 days, or about two and a half months.

Table 4. Average Number of Days Elapsed Between Nomination and Confirmation to Executive Branch Positions, 111th and 112th Congress

Congress	Average Number of Days Elapsed from Nomination to Confirmation
111 th	92.1
112 th	74.5

Source: Congressional Research Service, using the data in the Legislative Information System's (LIS) nominations database.

Notes: Data for the 112th Congress are current as of May 6, 2011.

The variation between the duration of the nominations process in the two Congresses could likely be explained, at least in part, by considering the differing circumstances of each Congress. The 111th Congress, since it began in a presidential transition year, may have experienced somewhat of a bottleneck with President Obama's nominations. A bottleneck can occur since the Senate committees, as part of their advice and consent role, process and investigate the President's nominees. In years when a new President has to staff his entire administration, the nominations process may be slowed while the Senate processes the nominations.¹⁰

⁸ For example, Hillary Rodham Clinton was nominated on January 20, 2009 to be Secretary of State. She was confirmed as Secretary the next day. This was counted in the data as one day elapsed. Nominations that were received and confirmed on the same day, such as the nomination of Janet A. Napolitano on January 20 to serve as Secretary of Homeland Security, are counted as zero, since no days elapsed between the Senate's receipt of the nomination and the floor vote.

⁹ Typically, when the Senate receives a nomination from the President, the presiding officer immediately refers it to committee.

¹⁰ A similar bottleneck can also occur with the selection and vetting of nominees and potential nominees done by the incoming President. For more information about presidential transitions and the nominations process, see CRS Report R40119, *Filling Advice and Consent Positions at the Outset of a New Administration*, by Henry B. Hogue, Maureen Bearden, and Betsy Palmer.

VI. Total Amount of Time Spent in Quorum Calls¹¹

The Senate spent 14,690 minutes in quorum calls during the first session of the 110th Congress (2007), or about 245 hours. That averages out to roughly 77.3 minutes per day every day of the 190 days the Senate spent in session. The Senate was in session for 1,375 hours and 54 minutes in 2007, so the 245 hours in quorum calls is about 17.8% of the total Senate time in session.

The Senate spent 12,055 minutes in quorum calls during the first session of the 111th Congress (2009), or about 200.9 hours. That averages out to roughly 63.1 minutes per day every day of the 191 days the Senate spent in session. The Senate was in session for 1,420 hours and 39 minutes in 2009, so the 200.9 hours in quorum calls is about 14% of the total Senate time in session.

Figures on time spent in quorum calls are not available for other years, but it is reasonable to conclude most years would fall into roughly the same range as the above, somewhere between 14 percent and 18 percent of the time the Senate is in session is spent in quorum calls.¹²

VII. Duration of Committee Consideration of Nominations

Average Length of Time Before Hearings for Confirmed Nominations

To measure the average length of time before hearings for confirmed nominations, CRS used the LIS data to measure the number of days elapsed between the Senate's receipt of a nomination and the first hearing held for that nominee. Confirmed nominations that did not include a hearing were excluded from this calculation.

For a number of high-priority positions, such as Cabinet positions, the Senate sometimes holds unofficial hearings prior to a President's inauguration so that the Senate can confirm some nominees quickly following inauguration. For example, President Obama announced prior to his inauguration that he intended to nominate Senator Kenneth Salazar to serve as Secretary of the Interior. On January 15, 2009, five days prior to inauguration, the Senate Committee on Energy and Natural Resources held unofficial hearings on the expected nomination. On January 20, soon after the new President submitted the nomination, the Senate confirmed Salazar for the position. Since it was an unofficial hearing, examples such as these are excluded from the calculation. In addition, since the hearing took place prior to the nomination, including those cases would have introduced negative numbers into the dataset.

Table 5 reports the requested data on the average length of time it takes for a Senate committee to hold a hearing for a nomination. In the 111th Congress, 510 nominees who were ultimately confirmed to executive branch positions had at least one hearing. On average, 44 days elapsed from the committee's receipt of the nomination until the committee held a hearing. During the 112th Congress, as of May 6, 2011, 18 nominees who were eventually confirmed to executive branch positions had a hearing. For those 18 nominees, the average time elapsed before the hearing was 52.5 days.

¹¹ This section was written by Betsy Palmer, Analyst on Congress and the Legislative Process.

¹² Published sources of information on Senate floor proceedings, such as the *Senate Journal* and the *Congressional Record*, do not contain time stamps or any other kind of time related identifying information. Information for this memorandum was obtained from two unpublished sources: the *Minute Book*, prepared by the Senate Journal Clerk, and the floor log kept by the Senate Recorders of Debate.

Table 5. Average Number of Days Elapsed Between Nomination to Executive Branch Positions and First Hearing, 111th and 112th Congress

Congress	Average Number of Days Elapsed from Nomination to First Hearing
111 th	44.0
112 th	52.5

Source: Congressional Research Service, using the data in the Legislative Information System's (LIS) nominations database.

Notes: Data for the 112th Congress are current as of May 6, 2011.

Average Time for Committee Reporting of Confirmed Nominations

You also requested information on the average time from the Senate's receipt of a nomination to committee reporting of nominations that were ultimately confirmed.¹³ To provide this information, **Table 6** shows the average number of days between when the committee receives the nomination and when the nomination is reported.¹⁴

The discussion in the section above on the length of time before hearings explained that for some high-priority positions such as Cabinet nominations, the Senate may hold hearings prior to Inauguration Day. Similarly, those nominations also receive unusual treatment in the Senate, because the nominations tend to get sent immediately to the floor, rather than to committee, for consideration. Therefore, those nominations are not included in the analysis provided in this section.

Table 6 indicates that the average number of days elapsed between receipt of nomination and committee reporting is 67.1 days for the 111th Congress and 65.5 days for the 112th Congress.

¹³ Some nominations leave committee by discharge rather than by committee reporting. Since a discharge may be considered a floor action and not a committee action, those nominations that were discharged from committee are not included in the average provided here.

¹⁴ Occasionally, there is a gap in between when a nomination is ordered to be reported and when it is actually reported. In those cases, we measured to the date the nomination was actually reported.

Table 6. Average Number of Days Elapsed Between Nomination to Executive Branch Positions and Committee Reporting, 111th and 112th Congress

Congress	Average Number of Days Elapsed from Nomination to Reporting
111 th	67.1
112 th	65.5

Source: Congressional Research Service, using the data in the Legislative Information System's (LIS) nominations database.

Notes: Data for the 112th Congress are current as of May 6, 2011.

The average length of time spent for committees is similar across the two Congresses: on average, for nominations that are ultimately confirmed, it takes Senate committees about two months to consider and report those nominations.

Number of Nominees Awaiting Senate Consideration, by Committee

This final section reports the number of nominations made in the 112th Congress that have not yet received any official action, such as hearings or markup. The data are presented by committee in **Table 7**. There are 118 executive branch nominations submitted during the 112th Congress that are currently pending in the Senate and have not received any committee action.

Some of these nominations presumably have not yet received any action in committee because they were received in the Senate shortly before the data for this memorandum were collected. For example, the President submitted seven nominations on May 4, 2011. He submitted another 17 nominations during the month of April. It is possible that Senate committees are actively processing these nominations, but they may not be prepared for any official action such as hearings.

Table 7. Number of Nominees Awaiting Senate Action, by Committee, 112th Congress

Committee	Number of Nominees Awaiting Action
Agriculture, Nutrition, and Forestry	0
Armed Services	5
Banking, Housing, and Urban Affairs	2
Budget	0
Commerce, Science, and Transportation	1
Energy and Natural Resources	0
Environment and Public Works	4
Finance	11
Foreign Relations	30
Health, Education, Labor, and Pensions	36
Homeland Security and Governmental Affairs	0
Indian Affairs	3
Intelligence	0
Judiciary	21
Rules and Administration	4
Small Business and Entrepreneurship	1
Veterans Affairs	0
Total	118

Source: Congressional Research Service, using the Legislative Information System's (LIS) nominations database.

Notes: This table reports the number of executive branch nominations in the 112th Congress that have not yet received any official committee action, such as a hearing. Data are current as of May 6, 2011.

We trust that this memorandum is responsive to your request. Please let us know if you need any further information.