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# **Nominations to Cabinet Positions During Inter-Term Transitions Since 1984**

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## Summary

Under the Constitution, high-level leadership positions in the executive branch are filled through appointment by the President “by and with the Advice and Consent of the Senate.” These posts include most of the approximately two dozen that form the President’s Cabinet, which is an institution established by custom, rather than by law. In recent decades, it has become customary for each two-term President to reshuffle his Cabinet during the inter-term transition—the transition that takes place at the end of a President’s first term in office and beginning of his second term. Typically about half the Cabinet members change during this transition period.

The appointments process for Cabinet and other advice and consent positions is generally considered to have three stages. In the first stage, the White House selects and clears a prospective appointee before sending a formal nomination to the Senate. In the second stage, the Senate initially relies on its committees to investigate each nominee and conduct hearings before taking up and deciding whether to approve the nomination. The Senate historically has confirmed most, but not all, Cabinet nominations. In the final stage of the appointments process, the confirmed nominee is given a commission bearing the Great Seal of the United States and signed by the President.

Since 1984, four two-term Presidents—Ronald W. Reagan, William J. Clinton, George W. Bush, and Barack H. Obama—made 48 nominations to Cabinet positions during inter-term transitions. For the purposes of this report, CRS considered an inter-term nomination to be one made between November 1 of each President’s reelection year and December 31 of the first year of his second term. In total, the Senate confirmed 46 of these 48 nominations; two nominations submitted by President Clinton were withdrawn during Senate consideration.

The duration of the appointments process, including the pace of Senate consideration, of these Cabinet nominations during inter-term transitions varied considerably. The mean (average) number of days elapsed from Senate receipt of Cabinet nominations during inter-term transitions to final action was 34.8. The median number of days from receipt to final action was 32.5. The **Appendix** of this report lists the data used to calculate these statistics.

As measured from the date of receipt in the Senate until the date of confirmation, the inter-term Cabinet nomination under Senate consideration for the shortest period was President Obama’s nomination of former Senator John F. Kerry to be Secretary of State in 2013, which was confirmed after seven days. The nomination under Senate consideration for the longest period was President Obama’s nomination in 2013 of Regina McCarthy to be Administrator of the Environmental Protection Agency, which was confirmed after 133 days.

Another method of measuring the duration of the appointments process during inter-term transitions is to measure the number of days elapsed using, as a starting point, the date of the President’s announcement of his intention to nominate the individual, rather than receipt of the nomination in the Senate. The mean (average) number of days elapsed using this methodology was 61.6, and the median was 53.0.

This report will be updated as events warrant.

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Under the Constitution, high-level leadership positions in the executive branch are filled through appointment by the President “by and with the Advice and Consent of the Senate.”<sup>1</sup> These posts include most of the approximately two dozen that form the President’s Cabinet. Because of the importance of these offices to the implementation of the President’s policies and the leadership of federal departments and agencies, they are usually among the first to be filled at the outset of a new Administration.<sup>2</sup> The President may nominate individuals to fill these posts at any point during his time in office, however. From time-to-time, Presidents have made new Cabinet appointments in the midst of a term in response to unexpected resignations or deaths.

In recent decades, it also has become customary for each two-term President to reshuffle his Cabinet during the inter-term transition—the transition that takes place at the end of a President’s first term in office and beginning of his second term. This process of filling Cabinet vacancies at the beginning of a second term has not been as extensive as the staffing at the beginning of the first term; typically about half the Cabinet members change. Nonetheless, the pace at which these nominations and confirmations are carried out could affect the implementation of the President’s policies during his second term, as well as the leadership of the departments and agencies affected.

This report discusses nominations to Cabinet positions during inter-term presidential transitions. It begins with a discussion of the positions that make up the Cabinet and the process by which nominations to such positions are considered in the Senate. Following this discussion, the report provides data on, and analysis of, the pace of Senate consideration of inter-term transition nominations to Cabinet positions since 1984.

## The Cabinet

The President’s Cabinet is an institution established by custom, rather than by law.<sup>3</sup> The Constitution provides that the President “may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices,” but it does not establish any requirement that he meet with them or seek their counsel.<sup>4</sup> Nonetheless, beginning with George Washington, Presidents have met with department heads and other top officials as a formal group.

The Cabinet comprises the heads of each of the departments, currently numbering 15, the Vice President, and other positions that have been accorded Cabinet rank by the President. This last group varies according to the preferences of each President. At present, it includes the following positions:

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<sup>1</sup> U.S. Constitution, Article II, Section 2, cl. 2.

<sup>2</sup> See CRS Report R40119, *Filling Advice and Consent Positions at the Outset of a New Administration*, by Henry B. Hogue and Maureen O. Bearden.

<sup>3</sup> Although not established by law, the Cabinet’s existence has been recognized in law. See, for example, 7 U.S.C. §2204(a), which provides that the Secretary of Agriculture “shall advise the President, other members of his Cabinet, and the Congress on policies and programs designed to improve the quality of life for people living in the rural and nonmetropolitan regions of the Nation.”

<sup>4</sup> U.S. Constitution, Article II, Section 2.

- White House Chief of Staff;
- Administrator of the Environmental Protection Agency;
- Director of the Office of Management and Budget;
- United States Trade Representative;
- United States Ambassador to the United Nations;
- Chairman of the Council of Economic Advisors; and
- Administrator of the Small Business Administration.<sup>5</sup>

Other positions that have been accorded Cabinet rank by past Presidents include, for example, Director of National Drug Control Policy, Counselor to the President, Director of Central Intelligence, and Director of the Federal Emergency Management Agency. At times, a President has changed the composition of his Cabinet during his presidency. For example, President William J. Clinton added four positions to his Cabinet over the course of his time in office.

Presidents have used their Cabinets in various ways. In some Administrations, the Cabinet has been a key advisory and decision-making body. In other Administrations, the Cabinet as a collective body has been a mostly symbolic institution, even as each individual exercises considerable influence over his or her department or agency. Regardless of a President's use of this group, the membership in the Cabinet conveys high status. Consequently, nominations to Cabinet-level positions are among the highest priority for consideration by the Senate.

### **Unsuccessful Cabinet Selections**

The Senate has usually confirmed Presidents' nominations to Cabinet positions; since 1789, hundreds of such nominations have been approved without controversy. However, not all individuals tapped for Cabinet positions have received Senate approval. On nine occasions, the Senate has withheld its consent by formally rejecting a nomination. Since 1980, this has occurred only once. President George H.W. Bush's nomination of former Senator John Tower to be Secretary of Defense was rejected by the Senate in 1989.

During recent decades, it has been more common for Cabinet selections to be withdrawn prior to formal Senate consideration than to be rejected by the Senate. On occasion, unanticipated controversy has arisen following the announcement of the President's selection. After determining that the nomination should not or will not move forward, the White House has announced that the individual has been withdrawn from consideration. If this occurs after a nomination has formally been submitted to the Senate, the President has also formally withdrawn the nomination. **Table I** provides a list of instances identified in which the President has withdrawn Cabinet nominations since 1980.

In rare cases, the President has submitted a Cabinet nomination that was not subsequently acted upon or withdrawn. In such cases, the nomination has been automatically returned to the President in accordance with Senate rules. For example, President Clinton nominated Michael Kantor to be Secretary of Commerce on May 3, 1996, following the death of Secretary Ronald H. Brown. The nomination was referred to committee but not reported, and it was returned to the President when the Senate adjourned sine die on October 4, 1996. At the time of the nomination, the President had also given Kantor a recess appointment to the post. The chairman of the Senate Committee on Commerce, Science, and Transportation, to which the nomination was referred, reportedly explained that the workload of the committee and the fact that the nominee was already in office influenced the decision not to take formal action on the nomination.<sup>6</sup>

<sup>5</sup> Current Cabinet information may be found at <http://www.whitehouse.gov/administration/cabinet>.

<sup>6</sup> Jonathan Weisman, "Nominations: Senate to Skip Kantor Hearings, Muffling Department's Foes," *CQ Weekly*, June (continued...)

Table I. Examples of Withdrawn Cabinet Selections

Selected Individual	Position	President (year)	Controversy and Outcome
Robert M. Gates	Director of Central Intelligence	Reagan (1987)	Was Deputy Director during the Iran-Contra Affair. Nomination withdrawn after Senate hearings.
Zoe E. Baird	Attorney General	Clinton (1993)	Issues related to immigration status of nanny and driver and related taxes. Nomination withdrawn prior to formal Senate consideration.
Kimba M. Wood	Attorney General	Clinton (1993)	Issues related to immigration status of nanny. Announced, not nominated.
Bobby Ray Inman	Secretary of Defense	Clinton (1994)	Issues related to his operation of a defense contracting company and payment of taxes for a household worker. Announced, not nominated.
Anthony Lake	Director of National Intelligence	Clinton (1997)	Issues related to his performance as National Security Advisor. Nomination withdrawn after Senate hearings.
Hershel W. Gober	Secretary of Veterans Affairs	Clinton (1997)	Potential conflict of interest issues related to resolution of a sexual harassment allegation while he was Deputy Secretary. Nomination withdrawn prior to formal Senate consideration.
Linda Chavez	Secretary of Labor	G.W. Bush (2001)	Issues related to the immigration status of an individual who had lived at her home. Announced, not nominated.
Bernard Kerik	Secretary of Homeland Security	G.W. Bush (2004)	Issues related to immigration status of housekeeper and nanny and related taxes. Announced, not nominated.
Thomas A. Daschle	Secretary of Health and Human Services	Obama (2009)	Issues related to back taxes on income and a car service. Nomination withdrawn following Senate hearings.
Bill Richardson	Secretary of Commerce	Obama (2009)	Ongoing federal investigation of potential conflict of interest issues during his time as governor of New Mexico. Announced, not nominated.
Judd Gregg	Secretary of Commerce	Obama (2009)	Policy disagreements with the Administration. Announced, not nominated.

**Source:** Compiled from the nominations database of the Legislative Information System (LIS), contemporary news accounts, and various volumes of *CQ Almanac*. Detailed source information is available from the authors.

(...continued)  
22, 1996, p. 1758.

## Overview of the Appointments Process

The appointments process for advice and consent positions, and therefore for most members of the President's Cabinet, is generally considered to have three stages: selection and nomination by the President, consideration in the Senate, and appointment by the President. This section of the report provides an overview of these three stages.

### Selection and Nomination

In the first stage, the White House selects and clears a prospective Cabinet appointee before sending a formal nomination to the Senate. There are a number of steps in this stage of the process. First, with the assistance of, and preliminary vetting by, the White House Office of Presidential Personnel, the President selects a candidate for the position. During the clearance process, the candidate prepares and submits several forms, including the "Public Financial Disclosure Report" (also referred to as the Office of Government Ethics (OGE) 278), the "Questionnaire for National Security Positions" (Standard Form (SF) 86), and the White House "Personal Data Statement Questionnaire."<sup>7</sup> The Office of the Counsel to the President oversees the clearance process, which often includes background investigations conducted by the Federal Bureau of Investigation (FBI), OGE, and an ethics official for the agency to which the candidate is to be appointed. If conflicts of interest are found during the background investigation, OGE and the agency ethics officer may work with the candidate to mitigate the conflicts. Once the Office of the Counsel to the President has cleared the candidate, the nomination is ready to be submitted to the Senate.

A nominee has no legal authority to assume the duties and responsibilities of the position. Authority to act comes once there is Senate confirmation and presidential appointment, unless the individual is recess appointed or temporarily appointed under another authority.<sup>8</sup>

### Senate Consideration of Nominations

In the second stage of the appointments process, the Senate determines whether or not to confirm a nomination.<sup>9</sup> Primarily, the Senate has shown particular interest in the nominee's views and how they are likely to affect public policy.<sup>10</sup>

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<sup>7</sup> Additional information about the selection and clearance process for nominees to executive branch positions can be found in a November 2012 study conducted pursuant to the enactment of P.L. 112-166, the Presidential Appointment Efficiency and Streamlining Act. See Working Group on Streamlining Paperwork for Executive Nominations, *Streamlining Paperwork for Executive Nominations: Report to the President and the Chairs and Ranking Members of the Senate Committee on Homeland Security and Government Affairs and the Senate Committee on Rules and Administration*, November 2012, at <http://www.hsgac.senate.gov/download/report-of-working-group-on-streamlining-paperwork-for-executive-nominations-final>. According to the working group's report, the Obama Administration does not currently use a personal data statement questionnaire (see p. 11). Rather, the Obama Administration appears to be using a background information form posted at <http://apply.whitehouse.gov>.

<sup>8</sup> For additional information on recess appointments and temporary appointments to Cabinet and other positions, see CRS Report RS21412, *Temporarily Filling Presidentially Appointed, Senate-Confirmed Positions*, by Henry B. Hogue; and CRS Report RS21308, *Recess Appointments: Frequently Asked Questions*, by Henry B. Hogue.

<sup>9</sup> For further information on this stage of the appointment process, see CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki.

Much of the Senate confirmation process occurs at the committee level. Administratively, nominations are received by the Senate executive clerk, who arranges for the referral of the nominations to committee, according to the Senate rules and precedents.<sup>11</sup> Committee nomination activity on Cabinet nominations generally includes investigation, hearing, and reporting. As part of investigatory work, committees have drawn on information provided by the White House, as well as information they themselves have collected. Hearings provide a public forum to discuss the nomination and any issues related to the agency for which the nominee would be responsible. Even where confirmation has been thought by most to be a virtual certainty, hearings have provided Senators and the nominee with opportunities to go on the record with particular views or commitments. Senators have used hearings to explore nominees' qualifications, articulate policy perspectives, or raise related oversight issues.

After a nomination is referred to committee, the committee may decline to act on the nomination at any point—upon referral, after investigation, or after a hearing. For Cabinet nominations, however, inaction is unusual. If the committee votes to report the nomination to the full Senate, it has three options: it may report the nomination favorably, unfavorably, or without recommendation. A failure to obtain a majority on the motion to report means the nomination will not be reported to the Senate.

After a committee reports a nomination, the nomination is assigned a calendar number by the executive clerk, placed on the *Executive Calendar*, and, if taken up by the full Senate, would be considered in executive session. The Senate imposes no limitation on floor debate on nominations, so cloture may be required to end debate and reach a vote on the nomination.<sup>12</sup> Based upon a precedent set by the Senate on November 21, 2013, a simple majority of those voting would be required to invoke cloture on all nominations to executive branch positions, including Cabinet nominations.<sup>13</sup>

The Senate historically has confirmed most, but not all, Cabinet nominations. Rarely, however, has a vote to confirm a Cabinet nomination failed on the Senate floor.<sup>14</sup>

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(...continued)

<sup>10</sup> G. Calvin Mackenzie, *The Politics of Presidential Appointments* (New York: The Free Press, 1981), pp. 97-189.

<sup>11</sup> Formally, the presiding officer of the Senate makes the referrals. For more information, see Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure: Precedents and Practices*, 101<sup>st</sup> Cong., 2<sup>nd</sup> sess., S.Doc. 101-28 (Washington: GPO, 1992), pp. 1154-8; and CRS Report RL30959, *Presidential Appointee Positions Requiring Senate Confirmation and Committees Handling Nominations*, by Christopher M. Davis and Jerry W. Mansfield.

<sup>12</sup> See CRS Report RL32878, *Cloture Attempts on Nominations: Data and Historical Development*, by Richard S. Beth, and CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki.

<sup>13</sup> See CRS Report R43331, *Majority Cloture for Nominations: Implications and the "Nuclear" Proceedings*, by Valerie Heitshusen.

<sup>14</sup> In one example, President George H. W. Bush nominated John G. Tower to be Secretary of Defense. Tower's nomination was reported unfavorably by the Committee on Armed Services and was disapproved by the Senate by a vote of 47-53. See also the section of this report entitled "Unsuccessful Cabinet Selections." Senate rules provide that "nominations neither confirmed nor rejected during the session at which they are made shall not be acted upon at any succeeding session without being again made to the Senate by the President..." Were the Senate not to take action on a Cabinet nomination, the pending nomination would likely be returned to the President at the end of the session or Congress.



## Appointment

Following Senate confirmation, the confirmed nominee is given a commission bearing the Great Seal of the United States and signed by the President. The nominee is then sworn into office. The President may sign the commission at any time after confirmation, at which point the appointment becomes official. Once the appointee is given the commission and sworn in, he or she has full authority to carry out the responsibilities of the office.

## Cabinet Nominations During Inter-Term Transitions Since 1984

The remainder of this report examines all Cabinet nominations made during inter-term transition periods of recent Presidents.

### Data in this Report

The **Appendix** of this report lists nominations to Cabinet positions during inter-term transitions for the four most recent Presidents who served two terms in office (Ronald W. Reagan, William J. Clinton, George W. Bush, and Barack H. Obama). The data included in the **Appendix** are nominations to Cabinet positions submitted during the inter-term transition period, which is defined as the period between November 1 of a President's re-election year and December 31 of the first year of his second term. In total, there were 48 such nominations, 46 of which the Senate confirmed—two of the inter-term Cabinet nominations made by President Clinton were withdrawn during Senate consideration.<sup>15</sup>

A previous version of this report, written prior to the completion of President Obama's inter-term transition, set April 30 as the end of the inter-term transition period. The earlier version included data on nominations received in the Senate prior to this date for Presidents Reagan, Clinton, and G. W. Bush. That six-month period from November 1 to April 30 covered the submission of, and Senate action on, almost all of the inter-term Cabinet nominations of those three Presidents. However, a number of President Obama's inter-term Cabinet nominations had not yet been received in the Senate as of April 30, 2013.<sup>16</sup>

As discussed above, the positions that the President chooses to include in his Cabinet vary across Administrations. The data provided in the **Appendix** include nominations to traditional Cabinet

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<sup>15</sup> Those nominations were of Anthony Lake to be Director of Central Intelligence and Hershel W. Gober to be Secretary of Veterans Affairs. (See also **Table 1** above for additional examples and a brief discussion of unsuccessful nominations both inside and outside the inter-term transition period.)

<sup>16</sup> The date of submission of a nomination may vary based on a number of factors, including when the vacancy arose and the nature and length of the vetting process. For example, of President Reagan's 9 inter-term Cabinet nominations, 4 were submitted after March 1; of President Clinton's 14 nominations, 2 were submitted after March 1; of President G. W. Bush's 11 nominations, 2 were submitted after March 1; and of President Obama's 14 nominations, 10 were submitted after March 1. Therefore, to make the information for President Obama comparable to the earlier Presidents, CRS extended the time it considered to be the inter-term transition for all four Presidents to the end of the calendar year of the President's fifth year in office. This change in the definition of the inter-term period also allowed for the inclusion of three additional nominations by the earlier Presidents, two of which were made by President Reagan and one of which was made by President Clinton.

positions as well as nominations to those positions given Cabinet rank by the nominating President. (See section above titled “The Cabinet” for a list of the positions that recent Presidents have accorded Cabinet rank in addition to the heads of the 15 executive departments.)

**Table A-1** in the **Appendix** provides information on all the Cabinet nominations made during inter-term transitions for the four Presidents covered by this report, listing the dates of relevant actions from the President’s official announcement of the nomination to the date of final Senate action upon each nomination.<sup>17</sup> The table provides (1) the date the President made his announcement; (2) the date the Senate received the nomination; (3) the date(s) the committee held hearings; (4) the date the nomination was ordered reported; and (5) the date on which the Senate confirmed the nomination. For two nominations made during the Clinton Administration, the nominations were withdrawn and not confirmed, as indicated in the table.

**Table A-2** in the **Appendix** provides the number of days elapsed between each of the steps listed in **Table A-1**. The final two columns in the table present two different measures of the total duration of the appointments process. The first is the number of days elapsed from the President’s official announcement of his intention to nominate the individual to Senate confirmation of the individual, provided he or she was confirmed. This number is provided in the second to last column of the table. The final column lists the second measure of the duration of the appointments process: the number of days from the Senate’s receipt of the nomination to confirmation of the nomination. Sometimes there was a lapse between the President’s announcement and his submission of the nomination, so including both measures is a more comprehensive approach. Finally, the rows at the bottom of the table present the mean (average) and median duration across all confirmed nominations for both measures.<sup>18</sup>

Ideally, a true measure of the duration of the appointments process would begin as soon as an individual is selected as a candidate for nomination and the vetting process commences. However, for a variety of reasons, data are not publicly available on timing of the early stages of the vetting process. Often the public may not be aware that an individual is being vetted for a position until the vetting process is partially or entirely complete, at which time the President makes a formal announcement of his intention to nominate the individual. Because of this lack of opportunity for measurement of the entire vetting process, the earliest publicly available point to begin measurement is the date on which the President formally announced his intention to nominate the individual.

Sometimes the number of days elapsed during the Senate’s consideration of a nomination is used as a proxy measure for how controversial a nomination is considered to be, or for the level of opposition to a nomination. However, the number of days elapsed during the Senate’s consideration of a nomination may be affected by other factors as well, such as the Senate’s or

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<sup>17</sup> Individuals whose nominations were expected but were not submitted (such as Susan Rice, who was presumed by many to be President Obama’s nominee for Secretary of State in 2013 but was never officially announced or nominated for that position) were not included.

<sup>18</sup> The mean (average) is the more familiar measure, and it was calculated by adding together the elapsed times for all of the cases and dividing the resulting sum by the total number of cases. The median is the middle number in a set of observations (or, in this case, because of an even number of observations, the average of the two middle numbers). In some data sets, where the data are skewed because of a limited number of extreme values (outliers), the median is often considered to be the more accurate of the two measures of central tendency. This is especially the case for smaller sets of numbers, such as the numbers provided in this report.

committee’s overall workload, other legislative priorities, and committee and floor scheduling decisions.

## Analysis of Cabinet Nominations Made During Inter-Term Transitions

As the data in the **Appendix** tables demonstrate, the duration of the Senate’s consideration of inter-term Cabinet nominations varied considerably during the presidencies covered in this analysis.

As discussed above, several methods might be used to measure the duration of the appointments process. One method is to count the number of days elapsed from the President’s announcement of his intention to make a nomination until its confirmation. A second method is to focus only on Senate consideration by counting the number of days elapsed from a nomination’s receipt in the Senate to its confirmation. These first two methods provide alternative measures of the total duration of the nomination and Senate consideration process. A third method is to examine the number of days elapsed between individual steps within the process.

**Table 2** provides a summary of the information in the **Appendix** tables, by President, using the two different methods of counting the total duration of the nomination process.

**Table 2. Duration of Cabinet Nominations During Inter-Term Transitions Since 1984, by President**

Administration (number of nominations in dataset)	Mean and median number of days from announcement to confirmation		Mean and median number of days from receipt in Senate to confirmation	
Ronald Reagan (9)	60.8	36.0	22.2	16.0
William J. Clinton (12)	67.5	55.0	42.3	36.0
George W. Bush (11)	54.6	52.0	22.5	22.0
Barack Obama (14)	65.1	55.5	57.3	49.0
<b>Total (46)</b>	<b>61.6</b>	<b>53.0</b>	<b>34.8</b>	<b>32.5</b>

**Source:** Data were compiled using the Legislative Information System (LIS), the *Public Papers of the Presidents of the United States*, and press accounts.

**Note:** The data included in this table are confirmed nominations to Cabinet positions submitted between November 1 of the President’s re-election year and December 31 of the first year of the second term. In total, there were 48 such nominations made during that period, 46 of which were confirmed and included in the statistics provided here. President Clinton submitted an additional two nominations that he withdrew prior to confirmation, meaning that he submitted a total of 14 and all four Presidents submitted a combined total of 48.

In some data sets, where the data are skewed because of a limited number of extreme values (outliers), the median is often considered to be the more accurate of the two measures of central tendency. This is especially the case for smaller sets of numbers, such as the numbers provided in this report.

As shown in the first set of numerical columns in **Table 2**, measuring from the date of announcement to the date of confirmation, the mean (average) number of days to confirm was 61.6, while the median was 53.0. In other words, approximately two months elapsed from the President’s announcement of his intention to submit a nomination until Senate confirmation of that nomination during this period.

Measuring from the date on which each nomination was received in the Senate, rather than from the date of announcement, the mean number of days elapsed before confirmation was 34.8. The median number of days from receipt to final action was 32.5. In other words, nominations to Cabinet positions during these inter-term transitions typically proceeded through the Senate confirmation process in just over a month, once the nomination was received in the Senate.

While there was some variation among the four Presidents listed here, the duration of the nominations included in **Table 2** does not, on average, tend to vary widely across Administrations as measured from the date of announcement. For each President, an average of approximately two months elapsed from time of announcement of the nomination to confirmation. The medians were lower than the means in all four cases, suggesting that the means were influenced, in each case, by at least one outlier (extreme value).

There was more variation, however, in the second set of columns in the table: the measure of days to confirmation once the nomination was received in the Senate. The lowest average number of days for Senate consideration was for President Reagan, whose nominations were under Senate consideration for 22.2 days on average. The highest was for President Obama, whose nominations were under Senate consideration for 57.3 days on average. The median ranged from a low of 16.0 days for President Reagan to a high of 49.0 days for President Obama.

The various methods of quantifying the length of Senate consideration of nominations are discussed more in detail in the sections below.

### **Notable Examples: Announcement to Confirmation**

As measured from date of announcement to confirmation, President Reagan's nomination of Edwin Meese III to be Attorney General had the longest duration: 156 days. This was in large part due to the fact that between the President's announcement and his submission of the nomination to the Senate, 105 days elapsed. Notably, the duration of Meese's nomination process for Attorney General was even longer than indicated by **Table A-1**: Meese had been originally nominated to the post during the previous congressional session on February 3, 1984. The Senate Judiciary Committee held hearings on the nomination, but did not report it to the full Senate. In accordance with Senate rules, the nomination was returned to the President when the Senate adjourned sine die on October 18, 1984. Meese's confirmation was delayed by an investigation related to his financial relationships with some individuals who had obtained federal jobs with his assistance. An independent counsel, appointed by then-Attorney General William French Smith at Meese's request, cleared him of any violations of criminal law. President Reagan first mentioned his intention of renominating Meese on September 7, 1984, under the assumption that the report of the results of the investigation would not reveal any incriminating new information. The President formally announced his intentions on September 20, 1984, after the report's release, and Meese was confirmed to the post by a vote of 63-31 on February 23, 1985.<sup>19</sup> Meese's 1984 nomination falls outside the transition period discussed in this report, and it is therefore not included in the **Appendix** tables.

Using the same measurement of the duration of the consideration of nominations—from the date of announcement of the nominee until the nominee is confirmed—the nomination that took the

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<sup>19</sup> "Meese Confirmed After Delay of 13 Months," *1985 Congressional Quarterly Almanac* (Washington, Congressional Quarterly, 1986).

least number of days was President Reagan's nomination of James A. Baker III to be Secretary of the Treasury. Presidential Reagan announced his intention to nominate Baker on January 8, 1985, and 21 days later, the Senate confirmed Baker by a vote of 95-0.

### **Notable Examples: Receipt to Confirmation**

Another measure of the duration of Senate consideration of nominations is to count the number of days elapsed from receipt of a nomination, rather than from the President's announcement of his intention to nominate. Using a measure of the Senate's receipt of the nomination to confirmation, the inter-term Cabinet nomination that took the longest to be confirmed was President Obama's nomination of Regina McCarthy to be Administrator of the Environmental Protection Agency in 2013. A total of 133 days elapsed from the receipt of McCarthy's nomination on March 7, 2013, until confirmation of her nomination on July 18, 2013. McCarthy was confirmed by a vote of 59-40.<sup>20</sup>

The Cabinet nomination made during an inter-term transition that proceeded most quickly from receipt to confirmation was also made by President Obama in 2013—the nomination of former Senator John F. Kerry to be Secretary of State. Seven days elapsed between the Senate's receipt of the nomination on January 22, 2013, and the confirmation vote on January 29, 2013. Kerry was confirmed by a vote of 94-3. Approximately one month elapsed after the President's announcement before he submitted the nomination to the Senate (32 days), and it is possible that the Senate committee may have begun preparing for its consideration of the nomination before the President formally submitted it.

### **Stages of Senate Consideration**

Another way to measure the duration of Senate consideration of nominations is to calculate the length of particular stages within the confirmation process—for example, the number of days elapsed from receipt of the nomination in the Senate (at which point it is immediately referred to committee) to the date on which a nominee's first hearing is held. The longest period that elapsed from the date a nomination was received to its first hearing was President Clinton's nomination of Alexis M. Herman to be Secretary of Labor in 1997. Seventy days elapsed from when the nomination was received on January 7, 1997, until the hearing was held on the nomination on March 18, 1997. In total, Herman's nomination was under consideration in the Senate for 113 days. Some of the discussion surrounding her nomination was related to her alleged involvement in campaign fundraising activities while employed at the White House.<sup>21</sup> Herman was confirmed by a vote of 85-13.

Tied for the fewest number of days elapsed from receipt in the Senate until the first hearing date was President Clinton's nomination of Madeleine K. Albright to be Secretary of State and President G. W. Bush's nomination of Carlos M. Gutierrez to be Secretary of Commerce. Both of those nominations received a hearing one day after they were received in the Senate. Albright's

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<sup>20</sup> For a discussion of some of the reasons for which McCarthy's nomination was considered to be controversial, see Juliet Eilperin, "Senate Confirms Gina McCarthy as EPA Administrator," *Washington Post*, July 18, 2013.

<sup>21</sup> "Herman Wins Labor Post Despite Controversy." *1997 Congressional Quarterly Almanac* (Washington, Congressional Quarterly, 1997).

nomination was ultimately confirmed by a vote of 99-0, and Gutierrez was confirmed without a roll call vote.

In other cases, a nomination might move through one or more stages of Senate consideration on the same day. For example, President Clinton's nomination of William S. Cohen to be Secretary of Defense had a hearing, was ordered reported, and was confirmed by a vote of 99-0, all on the same day. Two of President George W. Bush's nominations, the nominations of Mike Johanns to be Secretary of Agriculture and Margaret Spellings to be Secretary of Education, both had a hearing and were ordered reported on the same day. The Johanns and Spellings nominations were confirmed without a recorded vote two weeks after their nominations were reported.

## Appendix. Data for Nominations to Cabinet Positions During Inter-Term Transitions Since 1984

**Table A-I. Nominations to Cabinet Positions During Inter-Term Transitions Since 1984**

Nominating President	Position	Nominee	Date of President's announcement	Date received in Senate	Date of hearings	Date ordered reported	Final Senate action and date
Reagan	Secretary of Education	William J. Bennett	01/10/85	01/18/85	01/28/85	02/05/85	02/06/85 (93-0)
Reagan	Secretary of Energy	John S. Herrington	01/10/85	01/18/85	01/31/85	02/05/85	02/06/85 (93-1)
Reagan	Secretary of Health and Human Services	Otis R. Bowen	11/07/85	12/04/85	12/10/85	12/11/85	12/12/85 (93-2)
Reagan	Secretary of the Interior	Donald P. Hodel	01/10/85	01/22/85	02/01/85	02/05/85	02/06/85 (93-1)
Reagan	Attorney General	Edwin Meese III	09/20/84 <sup>a</sup>	01/03/85	01/29/85 01/30/85 01/31/85	02/05/85	02/23/85 (63-31)
Reagan	Secretary of Labor	William E. Brock III	03/20/85	04/17/85	04/23/85	04/24/85	04/26/85 (voice vote)
Reagan	Secretary of the Treasury	James A. Baker III	01/08/85	01/18/85	01/23/85	01/23/85	01/29/85 (95-0)
Reagan	U.S. Representative to the United Nations	Vernon A. Walters	02/08/85	03/25/85	05/01/85	05/07/85	05/16/85 (voice vote)
Reagan	U.S. Trade Representative	Clayton Yeutter	04/02/85	06/11/85	06/25/85	06/27/85	06/27/85 (voice vote)
Clinton	Secretary of Commerce	William M. Daley	12/13/96	01/07/97	01/22/97	01/29/97	01/30/97 (95-2)

<b>Nominating President</b>	<b>Position</b>	<b>Nominee</b>	<b>Date of President's announcement</b>	<b>Date received in Senate</b>	<b>Date of hearings</b>	<b>Date ordered reported</b>	<b>Final Senate action and date</b>
Clinton	Secretary of Defense	William S. Cohen	12/05/96	01/07/97	01/22/97	01/22/97	01/22/97 (99-0)
Clinton	Secretary of Energy	Federico Peña	12/20/96	01/28/97	01/30/97	03/06/97	03/12/97 (99-1)
Clinton	Secretary of Housing and Urban Development	Andrew M. Cuomo	12/20/96	01/07/97	01/22/97	01/28/97	01/29/97 (99-0)
Clinton	Secretary of Labor	Alexis M. Herman	12/20/96	01/07/97	03/18/97	04/10/97	04/30/97 (85-13)
Clinton	Secretary of State	Madeleine K. Albright	12/05/96	01/07/97	01/08/97	01/20/97	01/22/97 (99-0)
Clinton	Secretary of Transportation	Rodney E. Slater	12/20/96	01/07/97	01/29/97	02/05/97	02/06/97 (98-0)
Clinton	Secretary of Veterans Affairs	Hershel W. Gober	07/03/97	07/31/97		Withdrawn 10/27/97	
Clinton	U.S. Representative to the United Nations	Bill Richardson	12/13/96	01/07/97	01/29/97	02/11/97	02/11/97 (100-0)
Clinton	U.S. Trade Representative	Charlene Barshefsky	12/13/96	01/07/97	01/29/97	01/30/97	03/05/97 (99-1)
Clinton	Administrator of the Small Business Administration	Aida Alvarez	12/20/96	01/07/97	02/12/97	02/12/97	02/13/97 (voice vote)
Clinton	Chair of the Council of Economic Advisers	Janet L. Yellen	12/20/96	01/07/97	02/05/97	02/12/97	02/13/97 (voice vote)
Clinton	Director of Central Intelligence	Anthony Lake	12/05/96	01/09/97	03/11/97 03/12/97 03/13/97	Withdrawn 04/18/97	
Clinton	Director of Central Intelligence	George J. Tenet	03/19/97	04/21/97	05/06/97 05/07/97 05/14/97	07/10/97	07/10/97 (voice vote)



<b>Nominating President</b>	<b>Position</b>	<b>Nominee</b>	<b>Date of President's announcement</b>	<b>Date received in Senate</b>	<b>Date of hearings</b>	<b>Date ordered reported</b>	<b>Final Senate action and date</b>
Bush, G. W.	Secretary of Agriculture	Mike Johanns	12/02/04	01/04/05	01/06/05	01/06/05	01/20/05 (voice vote)
Bush, G. W.	Secretary of Commerce	Carlos M. Gutierrez	11/29/04	01/04/05	01/05/05	01/06/05	01/24/05 (voice vote)
Bush, G. W.	Secretary of Education	Margaret Spellings	11/17/04	01/04/05	01/06/05	01/06/05	01/20/05 (voice vote)
Bush, G. W.	Secretary of Energy	Samuel W. Bodman	12/10/04	01/04/05	01/19/05	01/26/05	01/31/05 (voice vote)
Bush, G. W.	Secretary of Health and Human Services	Michael O. Leavitt	12/13/04	01/04/05	01/18/05 01/19/05	01/25/05	01/26/05 (voice vote)
Bush, G. W.	Secretary of Homeland Security	Michael Chertoff	01/11/05	01/31/05	02/02/05	02/07/05	02/15/05 (98-0)
Bush, G. W.	Attorney General	Alberto Gonzales	11/10/04	01/04/05	01/06/05	01/26/05	02/03/05 (60-36)
Bush, G. W.	Secretary of State	Condoleezza Rice	11/16/04	01/04/05	01/18/05 01/19/05	01/19/05	01/26/05 (85-13)
Bush, G. W.	Secretary of Veterans Affairs	Jim Nicholson	12/09/04	01/04/05	01/24/05	01/24/05	01/26/05 (voice vote)
Bush, G. W.	Administrator of the Environmental Protection Agency	Stephen L. Johnson	03/04/05	03/17/05	04/06/05	04/13/05	04/28/05 (voice vote)
Bush, G. W.	U.S. Trade Representative	Robert J. Portman	03/17/05	04/13/05	04/21/05	04/26/05	04/28/05 (voice vote)
Obama	Secretary of Commerce	Penny Pritzker	05/02/13	05/09/13	05/23/13	06/10/13	06/25/13 (97-1)
Obama	Secretary of Defense	Charles T. Hagel	01/07/13	01/22/13	01/31/13	02/13/13	02/26/13 (58-41)

<b>Nominating President</b>	<b>Position</b>	<b>Nominee</b>	<b>Date of President's announcement</b>	<b>Date received in Senate</b>	<b>Date of hearings</b>	<b>Date ordered reported</b>	<b>Final Senate action and date</b>
Obama	Secretary of Energy	Ernest J. Moniz	03/04/13	03/07/13	04/09/13	04/18/13	05/16/13 (97-0)
Obama	Secretary of Homeland Security	Jeh Johnson	10/18/13	10/28/13	11/13/13	11/20/13	12/16/13 (78-16)
Obama	Secretary of the Interior	Sarah Jewell	02/06/13	02/07/13	03/07/13	03/21/13	04/10/13 (87-11)
Obama	Secretary of Labor	Thomas E. Perez	03/18/13	03/19/13	04/18/13	05/16/13	07/18/13 (54-46)
Obama	Secretary of State	John F. Kerry	12/21/12	01/22/13	01/24/13	01/29/13	01/29/13 (94-3)
Obama	Secretary of Transportation	Anthony R. Foxx	04/29/13	05/07/13	05/22/13	06/10/13	06/27/13 (100-0)
Obama	Secretary of the Treasury	Jacob J. Lew	01/10/13	01/22/13	02/13/13	02/26/13	02/27/13 (71-26)
Obama	Administrator of the Environmental Protection Agency	Regina McCarthy	03/04/13	03/07/13	04/11/13	05/16/13	07/18/13 (59-40)
Obama	Director of the Office of Management and Budget	Sylvia M. Burwell	03/04/13	03/07/13	04/09/13 04/10/13	04/17/13	04/24/13 (96-0)
Obama	U.S. Trade Representative	Michael Froman	05/02/13	05/07/13	06/06/13	06/11/13	06/19/13 (93-4)
Obama	Chairman of the Council of Economic Advisors	Jason Furman	06/10/13	06/11/13	06/27/13	07/18/13	08/01/13 (voice vote)
Obama	U.S. Representative to the United Nations	Samantha Power	06/05/13	06/13/13	07/17/13	07/23/13	08/01/13 (87-10)

**Source:** Data were compiled using the Legislative Information System (LIS), the *Public Papers of the Presidents of the United States*, press accounts of public statements of the President, and the White House website.

**Notes:** The data included in this table are nominations to Cabinet positions submitted between November 1 of the President's re-election year and December 31 of the first year of the second term.

- a. Meese was first nominated on February 3, 1984. The Senate Judiciary Committee held hearings on the nomination, but did not report it to the full Senate. In accordance with Senate rules, the nomination was returned to the President when the Senate adjourned sine die on October 18, 1984. Meese's confirmation was delayed by an investigation related to his financial relationships with some individuals who had obtained federal jobs with his assistance. An independent counsel, appointed by then-Attorney General William French Smith at Meese's request, cleared him of any violations of criminal law. President Reagan first mentioned his intention of renominating Meese on September 7, 1984, under the assumption that the report of the results of the investigation would not reveal any incriminating new information. The President formally announced his intentions on September 20, 1984, after the report's release. Meese was then renominated and confirmed as shown above. See "Meese Confirmed After Delay of 13 Months," *Congressional Quarterly Almanac: 99<sup>th</sup> Congress 1<sup>st</sup> Session ... 1985* (Washington, Congressional Quarterly, 1986), p. 236.

**Table A-2. Duration of Nominations to Cabinet Positions During Inter-Term Transitions Since 1984**

<b>Nominating President</b>	<b>Position</b>	<b>Nominee</b>	<b>Days from announcement to date received in Senate</b>	<b>Days from received in Senate to first hearing date</b>	<b>Days from first hearing to ordered reported</b>	<b>Days from ordered reported to final action</b>	<b>Days from announcement to final Senate action</b>	<b>Days from receipt in Senate to final action</b>
Reagan	Secretary of Education	William J. Bennett	8	10	8	1	27	19
Reagan	Secretary of Energy	John S. Herrington	8	13	5	1	27	19
Reagan	Secretary of Health and Human Services	Otis R. Bowen	27	6	1	1	35	8
Reagan	Secretary of the Interior	Donald P. Hodel	12	10	4	1	27	15
Reagan	Attorney General	Edwin Meese III	105	26	7	18	156	51
Reagan	Secretary of Labor	William E. Brock III	28	6	1	2	37	9
Reagan	Secretary of the Treasury	James A. Baker III	10	5	1	5	21	11
Reagan	U.S. Representative to the United Nations	Vernon A. Walters	45	37	6	9	97	52
Reagan	U.S. Trade Representative	Clayton Yeutter	70	14	2	0	86	16
Clinton	Secretary of Commerce	William M. Daley	25	15	7	1	48	23
Clinton	Secretary of Defense	William S. Cohen	33	15	0	0	48	15
Clinton	Secretary of Energy	Federico Peña	39	2	35	6	82	43
Clinton	Secretary of Housing and Urban Development	Andrew M. Cuomo	18	15	6	1	40	22
Clinton	Secretary of Labor	Alexis M. Herman	18	70	23	20	131	113

<b>Nominating President</b>	<b>Position</b>	<b>Nominee</b>	<b>Days from announcement to date received in Senate</b>	<b>Days from received in Senate to first hearing date</b>	<b>Days from first hearing to ordered reported</b>	<b>Days from ordered reported to final action</b>	<b>Days from announcement to final Senate action</b>	<b>Days from receipt in Senate to final action</b>
Clinton	Secretary of State	Madeleine K. Albright	33	1	12	2	48	15
Clinton	Secretary of Transportation	Rodney E. Slater	18	22	7	1	48	30
Clinton	Secretary of Veterans Affairs	Hershel W. Gober	28	n/a	n/a	n/a	n/a	n/a
Clinton	U.S. Representative to the United Nations	Bill Richardson	25	22	13	0	60	35
Clinton	United States Trade Representative	Charlene Barshefsky	7	22	1	34	64	57
Clinton	Administrator of the Small Business Administration	Aida Alvarez	18	36	0	1	55	37
Clinton	Chair of the Council of Economic Advisers	Janet L. Yellen	18	29	7	1	55	37
Clinton	Director of Central Intelligence	Anthony Lake	35	61	n/a	n/a	n/a	n/a
Clinton	Director of Central Intelligence	George J. Tenet	33	15	65	0	113	80
Bush, G. W.	Secretary of Agriculture	Mike Johanns	33	2	0	14	49	16
Bush, G. W.	Secretary of Commerce	Carlos M. Gutierrez	36	1	1	18	56	20
Bush, G. W.	Secretary of Education	Margaret Spellings	48	2	0	14	64	16
Bush, G. W.	Secretary of Energy	Samuel W. Bodman	25	15	7	5	52	27

<b>Nominating President</b>	<b>Position</b>	<b>Nominee</b>	<b>Days from announcement to date received in Senate</b>	<b>Days from received in Senate to first hearing date</b>	<b>Days from first hearing to ordered reported</b>	<b>Days from ordered reported to final action</b>	<b>Days from announcement to final Senate action</b>	<b>Days from receipt in Senate to final action</b>
Bush, G. W.	Secretary of Health and Human Services	Michael O. Leavitt	22	14	7	1	44	22
Bush, G. W.	Secretary of Homeland Security	Michael Chertoff	20	2	5	8	35	15
Bush, G. W.	Attorney General	Alberto Gonzales	55	2	20	8	85	30
Bush, G. W.	Secretary of State	Condoleezza Rice	49	14	1	7	71	22
Bush, G. W.	Secretary of Veterans Affairs	Jim Nicholson	26	20	0	2	48	22
Bush, G. W.	Administrator of the Environmental Protection Agency	Stephen L. Johnson	13	20	7	15	55	42
Bush, G. W.	U.S. Trade Representative	Robert J. Portman	27	8	5	2	42	15
Obama	Secretary of Commerce	Penny Pritzker	7	14	18	15	54	47
Obama	Secretary of Defense	Charles T. Hagel	15	9	13	13	50	35
Obama	Secretary of Energy	Ernest J. Moniz	3	33	9	28	73	70
Obama	Secretary of Homeland Security	Jeh Johnson	10	16	7	26	59	49
Obama	Secretary of the Interior	Sarah Jewell	1	28	14	20	63	62
Obama	Secretary of Labor	Thomas E. Perez	1	30	28	63	122	121
Obama	Secretary of State	John F. Kerry	32	2	5	0	39	7
Obama	Secretary of Transportation	Anthony R. Foxx	8	15	19	17	59	51

Nominating President	Position	Nominee	Days from announcement to date received in Senate	Days from received in Senate to first hearing date	Days from first hearing to ordered reported	Days from ordered reported to final action	Days from announcement to final Senate action	Days from receipt in Senate to final action
Obama	Secretary of the Treasury	Jacob J. Lew	12	22	13	1	48	36
Obama	Administrator of the Environmental Protection Agency	Regina McCarthy	3	35	35	63	136	133
Obama	Director of the Office of Management and Budget	Sylvia M. Burwell	3	33	8	7	51	48
Obama	U.S. Trade Representative	Michael Froman	5	30	5	8	48	43
Obama	Chairman of the Council of Economic Advisors	Jason Furman	1	16	21	14	52	51
Obama	U.S. Representative to the United Nations	Samantha Power	8	34	6	9	57	49
<b>Mean number of days from announcement / receipt in Senate to final action</b>							<b>61.6</b>	<b>34.8</b>
<b>Median number of days from announcement / receipt in Senate to final action</b>							<b>53.0</b>	<b>32.5</b>

**Source:** Data were compiled using the Legislative Information System (LIS), the *Public Papers of the Presidents of the United States*, press accounts of public statements of the President, and the White House website.

**Note:** The data included in this table are nominations to Cabinet positions submitted between November 1 of the President’s re-election year and December 31 of the first year of the second term.

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