



U.S. Circuit and District Court Nominations Confirmed During Lame Duck Sessions of Congress (1940-2021)

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This Insight provides information and analysis related to the number of U.S. circuit and district court nominees confirmed by the Senate during lame duck sessions of Congress from 1940 to 2021. For the purpose of this Insight, a lame duck session is [defined](#) as the period of time when Congress was in session after a November general election and prior to the beginning of a new Congress.

After the [Twentieth Amendment](#) to the Constitution was adopted in 1933 (which, in part, changed the convening date for a new Congress to January 3 of odd-numbered years), the first lame duck session of Congress occurred during the [76th Congress](#) from November 7, 1940, to January 2, 1941 (in the House) and to January 3, 1941 (in the Senate). For additional information, generally, about lame duck sessions of Congress, see CRS Report R45154, *Lame Duck Sessions of Congress, 1935-2018 (74th-115th Congresses)*, by Jane A. Hudiburg.

Overview of Nominations Confirmed Since 1940

Of the 23 lame duck sessions that have occurred since the adoption of the Twentieth Amendment, the Senate was in session during 22 (the sole exception was the lame duck session of the [105th Congress](#)).

As shown by [Table 1](#), of the 22 lame duck sessions during which the Senate was in session, U.S. circuit and/or district court nominations were confirmed in 16 (73%). It has, however, been more common for nominations to be confirmed during relatively more recent lame duck sessions. For example, of the six sessions from the [111th Congress](#) (2010) to the [116th Congress](#) (2020-21), nominations were confirmed in five (83%).

The six most recent lame duck sessions also account for a relatively large percentage of the total number of circuit and district court nominations confirmed during lame duck sessions held since 1940. Overall, a total of 153 nominations were confirmed by the Senate during such sessions. Of the 153 nominations, 73 (or nearly half, 48%), were confirmed during the six most recent lame duck sessions since 2010.

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Table I. Number of U.S. Circuit and District Court Nominees Confirmed During Lame Duck Sessions of Senate (1940-2021)

Congress	Date of Lame Duck Session in Senate ^a	Number of Nominees Confirmed		
		Circuit	District	Total
76 th	11/07/1940-01/03/1941 ^b	0	0	0
77 th	11/05/1942-12/16/1942	0	1	1
78 th	11/14/1944-12/19/1944	0	2	2
80 th	12/31/1948	0	0	0
81 st	11/27/1950-01/02/1951	1	7	8
83 rd	11/08/1954-12/02/1954	1	2	3
91 st	11/16/1970-01/02/1971	2	19	21
93 rd	11/18/1974-12/20/1974	2	13	15
96 th	11/12/1980-12/16/1980	1	0	1
97 th	11/29/1982-12/23/1982	0	5	5
103 rd	11/30/1994-12/1/1994	0	0	0
106 th	11/14/2000-12/15/2000	0	0	0
107 th	11/7/2002-11/20/2002	3	17	20
108 th	11/16/2004-12/8/2004	0	3	3
109 th	11/13/2006-12/8/2006	1	0	1
110 th	11/17/2008-12/11/2008	0	0	0
111 th	11/4/2010-12/22/2010	5	14	19
112 th	11/6/2012-01/02/2013	0	13	13
113 th	11/12/2014-12/16/2014	0	27	27
114 th	11/15/2016-01/03/2017	0	0	0
115 th	11/09/2018-01/03/2019	1	0	1
116 th	11/09/2020-01/03/2021	1	12	13

Source: Congressional Research Service

Notes:

- a. All [pro forma sessions](#) held during these lame duck sessions are included in the [date ranges](#) presented in the table. The lame duck session during the 80th Congress lasted for a single day. Not included in the table is the lame duck session for the 105th Congress, during which only the U.S. House was in session.
- b. [J. Warren Madden](#) was the first judicial nominee, generally, to be confirmed during a lame duck session. He was confirmed as a judge to the [United States Court of Claims](#) on January 2, 1941.

The confirmation of circuit and district court nominations during lame duck sessions has occurred [following elections](#) both when there was a change in party control of the Senate (including whether it was uncertain it would change) and when the majority party in the chamber didn't change.

Overall, 79 (52%) of the nominations confirmed during lame duck sessions were confirmed when there was a change in party control following an election (including if majority control remained uncertain for the next Congress) and 74 (48%) of the nominations were confirmed when there wasn't a change in control.

Additionally, the confirmation of circuit and district court nominations occurred during lame duck sessions when the Senate met to conduct business on [policy matters](#) unrelated to judicial nominations. During the lame duck session of the [107th Congress](#) (2002), for example, Congress passed [legislation creating the Department of Homeland Security](#) and adopted the [Intelligence Authorization Act for FY2003](#). The Senate also confirmed 3 circuit and 17 district court nominations during this particular lame duck session.

Circuit Court Nominations

The first circuit court nominee approved during a lame duck session was [John Patrick Hartigan](#), a nominee of President Truman who was confirmed by the Senate during the [81st Congress](#) on January 2, 1951.

It has been less common for the Senate to confirm circuit court nominations than district court nominations during lame duck sessions. Of the 22 such sessions included in [Table 1](#), circuit court nominations were approved in 10 (45%) and district court nominations were approved in 13 (59%).

Overall, a total of 18 circuit court nominations have been confirmed during lame duck sessions—with 7 (39%) being confirmed during the six most recent lame duck sessions. The greatest number of circuit court nominations confirmed during any lame duck session since 1940 was five (during the [111th Congress](#) in 2010).

District Court Nominations

The first district court nominee approved during a lame duck session was [Louis Earl Goodman](#), a nominee of President Franklin D. Roosevelt who was confirmed by the Senate during the [77th Congress](#) on December 15, 1942.

Overall, 135 district court nominations have been confirmed during lame duck sessions—with 66 (49%) being confirmed during the six most recent lame duck sessions. The greatest number of district court nominations confirmed during any lame duck session since 1940 was 27 (during the [113th Congress](#) in 2014).

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