



(NOT SO) PRIVILEGED NOMINATION CALENDAR:

**Nominations that are streamlined for faster
Senate confirmation are actually taking almost
50% longer to confirm than those that follow
the regular process**

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PARTNERSHIP FOR PUBLIC SERVICE

CENTER *for* PRESIDENTIAL TRANSITION

About the Partnership

The Partnership for Public Service is a nonpartisan, nonprofit organization that works to revitalize the federal government by inspiring a new generation to serve and by transforming the way government works. The Partnership teams up with federal agencies and other stakeholders to build better government and a stronger democracy.

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The Senate created the privileged nomination process more than a decade ago, a procedure designed to speed up the confirmation of nominees for roughly 280 positions that are typically noncontroversial. Despite this well-intentioned effort, nominees on the privileged calendar are worse off today than they were before the reform was adopted.

An analysis of the data shows three notable trends for nominees navigating the privileged nomination process: 1) privileged nominees take longer to confirm now than they did before this system was instituted; 2) privileged nominees continue to take longer to confirm than nominees subject to the regular Senate confirmation process; and 3) part-time positions – the bulk of positions on the privileged calendar – take 72% longer to confirm than full-time positions on the calendar.

The creation of the privileged calendar was part of an effort to streamline the Senate confirmation process. In 2011, Congress passed the [Presidential Appointment Efficiency and Streamlining Act](#) which reduced the overall number of Senate-confirmed positions by 163. The Senate also adopted [S. Res. 116](#) that created the privileged nomination process for roughly 25% of the approximately 1,200 Senate-confirmed positions. Even with these changes, the Senate confirmation process is [slower now than ever](#) before. Based on an analysis of the privileged nomination process, we recommend that:

1. Congress converts more positions on the privileged calendar to presidential appointments not requiring Senate confirmation, nonpolitical career roles or agency-controlled appointments on boards and commissions.
2. The Senate creates an expedited floor procedure for the privileged calendar process which would more easily allow nominees not referred to committees to be considered en bloc.

What is the privileged calendar?

Privileged nominees bypass the Senate committee process to expedite their confirmation

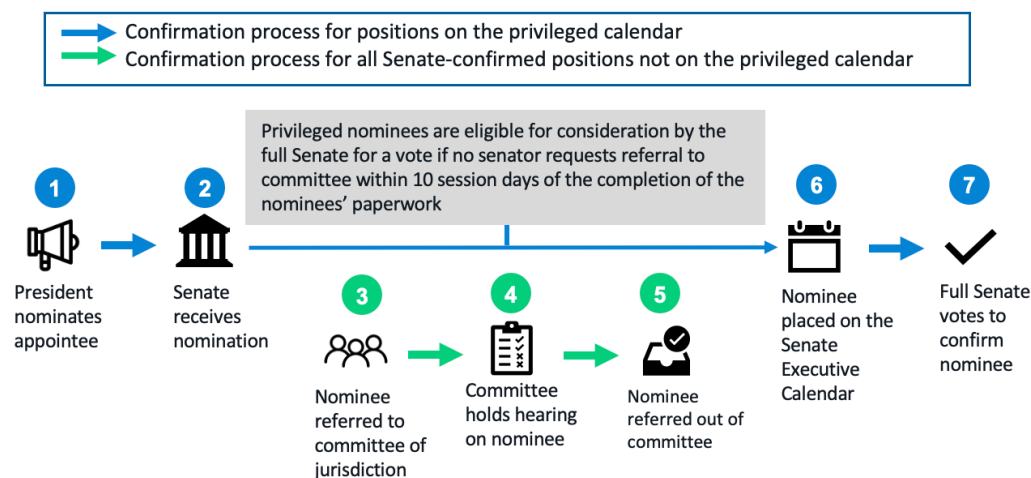
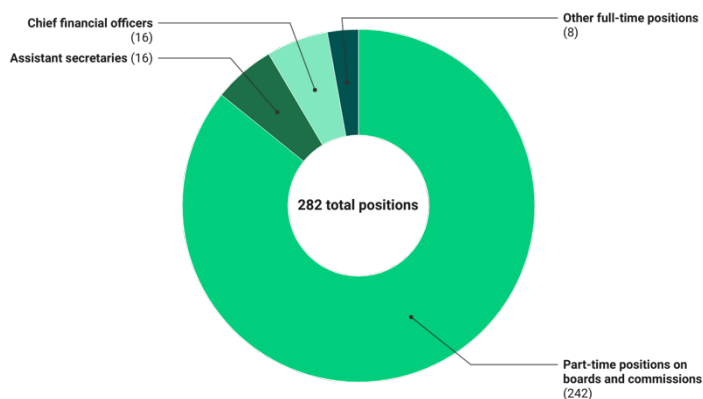


Figure 1: Privileged calendar process

On June 29, 2011, the Senate agreed to S. Res. 116, creating the privileged nomination process that currently applies to 282 positions.¹ While the process was primarily intended for part-time positions on boards and commissions, roughly 40 positions (or 14% of the privileged calendar) are full-time, including agency chief financial officers and select assistant secretaries.

Positions on the privileged calendar



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Top 5 boards and commissions with the most positions eligible for the privileged calendar

Board/commission name	Number of positions	Committee of jurisdiction
National Council on the Humanities	26	Health, Education, Labor, and Pensions
National Council on the Arts	18	Health, Education, Labor, and Pensions
National Peace Corps Advisory Council	15	Foreign Relations
Corporation for National and Community Service	15	Health, Education, Labor, and Pensions
National Association of Registered Agents and Brokers*	13	Banking, Housing, and Urban Affairs

*13 members of the National Association of Registered Agents and Brokers were added to the privileged calendar in 2015 by the Terrorism Risk Insurance Program Reauthorization Act of 2015.

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¹ The process took effect on Aug. 28, 2011. You can find the full list of positions on the privileged calendar in the appendix.

The process was intended to shorten confirmations by allowing privileged nominees to bypass Senate committee consideration. After the Senate receives a nomination, these nominees can be placed directly on the privileged nominations section of the Senate's Executive Calendar. These nominees are eligible for a vote by the full Senate vote if no Senator requests referral to committee within 10 session days of the completion of the nominee's paperwork [See figure 1]. In 2020, the Congressional Research Service [found](#) that out of 467 privileged nominees submitted between 2011 and 2020, only 22 (or 4.7%) of those nominees were referred to committee by a Senator.

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PRIVILEGED NOMINATIONS

Pursuant to S. Res. 116, 112th Congress, nominations in this section of the Executive Calendar are entitled to expedited procedures.

MESSAGE No.	DATE RECEIVED	NOMINEE AND POSITION	INFORMATION REQUESTED BY COMMITTEE	REQUESTED INFORMATION RECEIVED	SENATOR REQUESTED REFERRAL TO COMMITTEE OF JURISDICTION
791	Jul 13, 2021	Audrey K. Schuster, of Massachusetts, to be Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 2025, vice Javaid Anwar, term expired.	Yes	Jul 18, 2022	
924	Jul 26, 2021	Joseph M. Green, of North Carolina, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring March 3, 2028. (Reappointment)	Yes	Jul 18, 2022	
1069	Sep 13, 2021	Javier E. Saade, of the District of Columbia, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2022, vice David Avren Jones, term expired.	Yes		Sep 20, 2021 - Mr. Tuberville.

Figure 2: The below snapshot is an example of the "privileged nominations" section of the Executive Calendar

Since these positions are typically noncontroversial, the Senators who created the privileged calendar expected it would allow nominees to more quickly navigate the confirmation process. However, while the process allows nominees to bypass committee review, it does not provide for an expedited procedure once it reaches the full Senate. As a result, once privileged nominees are placed on the Executive Calendar, they wait alongside all other nominees for the final step of the process – a vote by the Senate. The data shows that positions on the privileged calendar are taking longer to confirm now than before its creation.

How have confirmation times changed for positions on the privileged calendar?

In order to understand the impact of the changed process, the Partnership for Public Service's Center for Presidential Transition studied the confirmation times of positions on the privileged calendar during the past 11 years. We also examined how long comparable positions took to get confirmed in the 10 years prior to the adoption of the procedure. Our data highlighted three main trends:

Confirmation time before and after the Senate adopted the privileged calendar

■ Avg. number of days to confirm positions on the privileged calendar ■ Avg. number of days to confirm all positions not on the privileged calendar

Before adoption of the privileged calendar (2001-2011)



After adoption of the privileged calendar (2011-2022)



This data was compiled by the Partnership for Public Service's Center for Presidential Transition® and was gathered from Congress.gov. The confirmation process is defined as the time between a president sending a formal nomination to the Senate and the confirmation vote. Data is as of July 12, 2022.

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(1) The positions on the privileged nomination calendar are taking longer to confirm since the procedure was introduced than comparable positions took before the reform was adopted. The average time needed to confirm privileged nominees has increased by 47% since such positions were placed on the privileged calendar. Since this system went into effect during President Barack Obama's first term, the Senate has approved 240 of these nominees, each taking on average of 251 days to confirm. That is roughly 80 days longer than similar positions took to confirm in the prior decade, when the average was 171 days.

The Senate has confirmed far fewer of these positions during the last 11 years (2011-2022) than it confirmed during the prior 10 years (2001-2011).

(2) Privileged nominees take longer to confirm than all other Senate-confirmed positions. Since 2011, privileged nominees, on average, have taken more than 75 days longer to confirm than all other nominees. That is roughly the same discrepancy that existed prior to 2011.

Simply put, the system designed to speed the Senate approval of noncontroversial presidential nominees has failed to expedite the confirmation process. This trend is part of a larger problem that has seen the confirmation times for all nominees increase during successive presidencies.

Days to confirm full-time and part-time positions on the privileged calendar

■ Full-time positions ■ Part-time positions

Before adoption of the privileged calendar (2001-2011)



After adoption of the privileged calendar (2011-2022)



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Days to confirm full-time and part-time positions not on the privileged calendar

■ Full-time positions ■ Part-time positions

Before adoption of the privileged calendar (2001-2011)



After adoption of the privileged calendar (2011-2022)



This data was compiled by the Partnership for Public Service's Center for Presidential Transition® and was gathered from Congress.gov. The confirmation process is defined as the time between a president sending a formal nomination to the Senate and the confirmation vote. Data as of July 12, 2022.

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(3) Part-time positions on the privileged calendar have taken, on average, more than 100 days longer to confirm than full-time positions. Although part-time positions make up the vast majority of the privileged nomination process, the data shows that nominees for full-time positions have been processed through the system roughly 72% faster than part-time positions. This discrepancy results from the fact that part-time positions on the privileged calendar are some of the least controversial Senate-confirmed positions. As a result, they are likely to wait for confirmation behind more controversial, full-time positions.

What factors may cause the delayed confirmation of privileged nominees?

The growth in the number of Senate-confirmed positions, a lower priority given to part-time positions and increasing politicization of the Senate confirmation process have contributed to the lag in confirmation times for these nominees.



- **Growth in Senate-confirmed positions:** Since 1960, the number of Senate-confirmed positions increased by nearly 60%, from 779 to 1,237.² Because privileged nominees eventually funnel into the same Executive Calendar as all other nominees, the high number of Senate-confirmed positions likely slows down all nominees, including those on the privileged calendar.



- **Lower priority level of part-time positions:** The Senate may not prioritize confirming the roughly 240 part-time positions on the privileged calendar. Individuals nominated for part-time positions listed on the privileged calendar during the Obama and Donald Trump administrations took more than 100 days longer to confirm than full-time privileged nominees.



- **Increasing politicization of the Senate confirmation process:** One way we track politicization is by the number of cloture motions filed on executive branch nominees. A cloture motion is a Senate procedure used to place a time limit on consideration of a nominee. Cloture motions are frequently filed to overcome filibusters by the opposing party members. Therefore, the growth in the number of cloture motions filed on executive branch nominees is one example of the increasingly politicized process. The number of cloture motions on nominations rose from 16 during the Clinton administration to 101 during the Obama administration, 189 during the Trump administration and 110 during President Joe Biden's first year.

² David Lewis's analysis of U.S. Congress, Policy and Supporting Positions, various years; and Partnership for Public Service analysis of U.S. Congress, Policy and Supporting Positions, various years.

Recommendations to improve confirmation process for positions on the privileged calendar

1) Take more privileged nominees out of Senate confirmation process altogether: Removing appointees on the privileged calendar from the Senate confirmation process would increase the Senate's focus on a smaller, more select group of positions. The Senate has already determined that many of these positions are noncontroversial and do not need the same level of scrutiny as standard Senate-confirmed appointees. The Partnership's report, [Unconfirmed](#), outlines what criteria Congress should use to determine which positions would be appropriate candidates for conversion out of Senate confirmation. These positions could be converted to political appointments not requiring Senate confirmation, nonpolitical career roles, agency-controlled appointments on boards and commissions or eliminated altogether.

For example, if a Senate-confirmed appointee reports to other Senate-confirmed individuals in more senior roles, that position may be a good candidate for conversion. For positions on boards and commissions, Congress could reduce the size of a board or commission, transfer a board or commission into a larger department or evaluate the responsibilities of part-time positions to determine whether the position needs to be subject to advice and consent.

2) Create an expedited floor procedure for remaining positions on the calendar: The privileged calendar currently allows nominees to bypass committees but does not provide a quicker process once nominees reach the Senate floor. As a result, nominees can face long delays during the final step of the confirmation process. Because most privileged calendar positions are part-time, the Senate may have less incentive to confirm these appointees when full-time Senate-confirmed positions are also awaiting confirmation.

One way to improve this process would be for the Senate to establish a regular procedure whereby privileged nominees not referred to committees would be considered en bloc on a weekly basis while the Senate is in session. The revision could provide that a privileged nomination may be separated from the en bloc consideration if a certain number of senators sign a request for a separate vote. These changes would expedite the process from start to finish.

Conclusion

The privileged calendar was viewed as a potentially innovative solution to what had been and continues to be worsening problems for successive administrations – long delays in confirming political appointees, a declining confirmation rate and an increasing number of vacancies across the government. S. Res. 116 created the privileged calendar to provide an expedited path for nearly a quarter of these Senate-confirmed positions considered noncontroversial. However, these individuals have encountered the same issues that face all other nominees. As a result, their confirmation times have continued to increase alongside all other presidential appointees.

The Partnership for Public Service encourages Congress to consider changes to the Senate confirmation process and the privileged calendar to help future administrations more quickly fill roles that are critical for a more effective government.
and more.

Appendix: List of positions on the privileged calendar

Assistant secretaries: 16 total		
Position name	Number of positions	Committee of jurisdiction
Assistant Secretary for Congressional Relations, Department of Agriculture	1	Agriculture, Nutrition, and Forestry
Assistant Secretary for Legislative Affairs, Department of Defense	1	Armed Services
Assistant Secretary of the Air Force for Financial Management/Comptroller	1	Armed Services
Assistant Secretary of the Army for Financial Management/Comptroller	1	Armed Services
Assistant Secretary of the Navy for Financial Management/Comptroller	1	Armed Services
Assistant Secretary for Congressional and Intergovernmental Relations, Department of Housing and Urban Development	1	Banking, Housing, and Urban Affairs
Assistant Secretary for Governmental Affairs, Department of Transportation	1	Commerce, Science, and Transportation
Assistant Secretary for Legislative Affairs, Department of Commerce	1	Commerce, Science, and Transportation
Assistant Secretary for Administration, Department of Commerce	1	Commerce, Science, and Transportation
Assistant Secretary for Congressional and Intergovernmental Affairs, Department of Energy	1	Energy and Natural Resources
Deputy Under Secretary/Assistant Secretary for Legislative Affairs, Department of the Treasury	1	Finance
Assistant Secretary for Legislative Affairs, Department of State	1	Foreign Relations
Assistant Secretary for Legislation and Congressional Affairs, Department of Education	1	Health, Education, Labor, and Pensions
Assistant Secretary for Congressional and Intergovernmental Affairs, Department of Labor	1	Health, Education, Labor, and Pensions
Assistant Secretary for Legislation, Department of Health and Human Services	1	Health, Education, Labor, and Pensions
Assistant Secretary for Congressional and Legislative Affairs, Department of Veterans Affairs	1	Veterans' Affairs
Chief financial officers: 16 total		
Position name	Number of positions	Committee of jurisdiction
Chief Financial Officer, Department of Agriculture	1	Agriculture, Nutrition, and Forestry
Chief Financial Officer, Department of Defense	1	Armed Services
Chief Financial Officer, Department of Housing and Urban Development	1	Banking, Housing, and Urban Affairs
Chief Financial Officer, National Aeronautics and Space Administration	1	Commerce, Science, and Transportation
Chief Financial Officer, Department of Commerce	1	Commerce, Science, and Transportation
Chief Financial Officer, Department of Transportation	1	Commerce, Science, and Transportation
Chief Financial Officer, Department of Energy	1	Energy and Natural Resources
Chief Financial Officer, Department of the Interior	1	Energy and Natural Resources
Chief Financial Officer, Environmental Protection Agency	1	Environment and Public Works
Chief Financial Officer, Department of the Treasury	1	Finance

Chief Financial Officer, Department of State	1	Foreign Relations
Chief Financial Officer, Department of Health and Human Services	1	Health, Education, Labor, and Pensions
Chief Financial Officer, Department of Education	1	Health, Education, Labor, and Pensions
Chief Financial Officer, Department of Labor	1	Health, Education, Labor, and Pensions
Chief Financial Officer, Department of Homeland Security	1	Homeland Security and Governmental Affairs
Chief Financial Officer, Department of Veterans Affairs	1	Veterans' Affairs
Other full-time positions: 8 total		
Position name	Number of positions	Committee of jurisdiction
Commissioner, Administration for Children, Youth, and Families, Department of Health and Human Services	1	Finance
Chairman, Advisory Board for Cuba Broadcasting	1	Foreign Relations
Assistant Administrator for Legislative and Public Affairs, U.S. Agency for International Development	1	Foreign Relations
Commissioner, Rehabilitation Services Administration, Department of Education	1	Health, Education, Labor, and Pensions
Controller, Office of Federal Financial Management, Office of Management and Budget	1	Homeland Security and Governmental Affairs
Commissioner, Administration for Native Americans, Department of Health and Human Services	1	Indian Affairs
Assistant Attorney General for Legislative Affairs, Department of Justice	1	Judiciary
Federal Coordinator, Alaska Natural Gas Transportation Projects	1	Energy and Natural Resources
Part-time positions on boards and commissions: 242 total		
Position name	Number of positions	Committee of jurisdiction
Members (5), Board of Directors, Federal Agricultural Mortgage Corporation	5	Agriculture, Nutrition, and Forestry
Members (6), Board of Directors, National Institute of Building Sciences	6	Banking, Housing, and Urban Affairs
Directors (5), Securities Investor Protection Corporation	5	Banking, Housing, and Urban Affairs
Members (13), Board of Directors, National Association of Registered Agents and Brokers	13	Banking, Housing, and Urban Affairs
Members (3), Board of Directors, Metropolitan Washington Airport Authority	3	Commerce, Science, and Transportation
Members (5), Advisory Board, St. Lawrence Seaway Development Corporation	5	Commerce, Science, and Transportation
Members (9), Board of Trustees, Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation	9	Environment and Public Works
Member (7), Board, Internal Revenue Service Oversight	7	Finance
Member (2), Board of Trustees, Federal Old Age and Survivors Fund	2	Finance
Members (3), Advisory Board, Social Security	3	Finance
Members (2), Board of Trustees, Federal Hospital Insurance Trust Fund	2	Finance
Members (2), Board of Trustees, Federal Supplemental Medical Insurance Trust Fund	2	Finance
Members (7), Board of Directors, African Development Foundation	7	Foreign Relations

Members (9), Board of Directors, Inter-American Foundation	9	Foreign Relations
Members (15), National Peace Corps Advisory Council	15	Foreign Relations
Members (8), Board of Directors, Overseas Private Investment Corporation	8	Foreign Relations
Members (8), Advisory Board for Cuba Broadcasting	8	Foreign Relations
Commissioners (7), U.S. Advisory Commission on Public Diplomacy	7	Foreign Relations
Members (4), Board of Directors, Millennium Challenge Corporation	4	Foreign Relations
Members (15), Corporation for National and Community Service	15	Health, Education, Labor, and Pensions
Chairman, Board of Directors, U.S. Institute of Peace	1	Health, Education, Labor, and Pensions
Vice Chairman, Board of Directors, U.S. Institute of Peace	1	Health, Education, Labor, and Pensions
Members (10), Board of Directors, U.S. Institute of Peace	10	Health, Education, Labor, and Pensions
Members (8), Board of Trustees, Truman Scholarship	8	Health, Education, Labor, and Pensions
Members (11), Board of Directors, Legal Services Corporation	11	Health, Education, Labor, and Pensions
Members (26), National Council on the Humanities	26	Health, Education, Labor, and Pensions
Members (8), Board of Trustees, Goldwater Scholarship	8	Health, Education, Labor, and Pensions
Members (6), Board of Trustees, Madison Fellowship	6	Health, Education, Labor, and Pensions
Members (18), National Council on the Arts	18	Health, Education, Labor, and Pensions
Members (5), Federal Retirement Thrift Investment Board	5	Homeland Security and Governmental Affairs
Members (11), Board of Directors, State Justice Institute	11	Judiciary
Members (2), Foreign Claims Settlement Commission	2	Judiciary

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