

117TH CONGRESS  
1ST SESSION

# H. R. 2994

To amend title 5, United States Code, to modify the provisions of that title relating to the Federal Vacancies Reform Act of 1998, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2021

Ms. PORTER (for herself, Mrs. CAROLYN B. MALONEY of New York, Mr. THOMPSON of Mississippi, Mr. SMITH of Washington, Mr. NADLER, Mr. CONNOLLY, Mr. SCHIFF, Mr. GRIJALVA, and Mr. TAKANO) introduced the following bill; which was referred to the Committee on Oversight and Reform

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## A BILL

To amend title 5, United States Code, to modify the provisions of that title relating to the Federal Vacancies Reform Act of 1998, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Accountability for Act-  
5 ing Officials Act”.

1 **SEC. 2. CLARIFICATION OF FEDERAL VACANCIES REFORM**

2 **ACT OF 1998.**

3 (a) **FIRST ASSISTANT REQUIREMENTS.**—Section  
4 3345 of title 5, United States Code, is amended as follows:

5 (1) In subsection (a)—

6 (A) in paragraph (1), by adding at the end  
7 before the semi-colon the following: “, but, and  
8 except as provided in subsection (e), only if the  
9 individual serving in the position of first assist-  
10 ant has occupied such position for a period of  
11 at least 30 days during the 365-day period pre-  
12 ceding the date of the death, resignation, or be-  
13 ginning of inability to serve”; and

14 (B) by striking subparagraph (A) of para-  
15 graph (3) and inserting the following:

16 “(A) the officer or employee served in a  
17 position in such agency for a period of at least  
18 1 year preceding the date of death, resignation,  
19 or beginning of inability to serve of the applica-  
20 ble officer; and”.

21 (2) By adding at the end the following:

22 “(d) For purposes of this section, a position shall be  
23 considered to be the first assistant to the office with re-  
24 spect to which a vacancy occurs only if such position has  
25 been designated, at least 30 days before the date of the  
26 vacancy, by law, rule, or regulation as the first assistant

1 position. The previous sentence shall begin to apply on the  
2 date that is 180 days after the date of enactment of the  
3 Accountability for Acting Officials Act.

4 “(e) The 30-day service requirement in subsection  
5 (a)(1) shall not apply to any individual who is a first as-  
6 sistant if—

7 “(1) the office of such first assistant is an of-  
8 fice for which appointment is required to be made by  
9 the President, by and with the advice and consent  
10 of the Senate; and

11 “(2) the Senate has approved the appointment  
12 of such individual to such office.”.

13 (b) QUALIFICATIONS.—Section 3345(b) of title 5,  
14 United States Code, is amended by adding at the end the  
15 following:

16 “(3) Any individual directed to perform the functions  
17 and duties of the vacant office temporarily in an acting  
18 capacity under subsection (a)(2) or (f) shall possess the  
19 qualifications (if any) set forth in law, rule, or regulation  
20 that are otherwise applicable to an individual appointed  
21 by the President, by and with the advice and consent of  
22 the Senate, to occupy such office.”.

23 (c) APPLICATION TO INDIVIDUALS REMOVED FROM  
24 OFFICE.—Paragraph (2) of section 3345(c) of title 5,  
25 United States Code, is amended by inserting after “the

1 expiration of a term of office” the following: “or removal  
2 (voluntarily or involuntarily) from office”.

3 (d) VACANCY OF INSPECTOR GENERAL POSITIONS.—

4 (1) IN GENERAL.—Section 3345 of title 5,  
5 United States Code, as amended by subsection  
6 (a)(2), is further amended by adding at the end the  
7 following:

8 “(f)(1) Notwithstanding subsection (a), if an Inspec-  
9 tor General position that requires appointment by the  
10 President by and with the advice and consent of the Sen-  
11 ate to be filled is vacant, the first assistant of such posi-  
12 tion shall perform the functions and duties of the Inspec-  
13 tor General temporarily in an acting capacity subject to  
14 the time limitations of section 3346.

15 “(2) Notwithstanding subsection (a), if for purposes  
16 of carrying out paragraph (1) of this subsection, by reason  
17 of absence, disability, or vacancy, the first assistant to the  
18 position of Inspector General is not available to perform  
19 the functions and duties of the Inspector General, an act-  
20 ing Inspector General shall be appointed by the President  
21 from among individuals serving in an office of any Inspec-  
22 tor General, provided that—

23 “(A) during the 365-day period preceding the  
24 date of death, resignation, or beginning of inability  
25 to serve of the applicable Inspector General, the in-

1       dividual served in a position in an office of any In-  
2       specter General for not less than 90 days; and

3               “(B) the rate of pay for the position of such in-  
4       dividual is equal to or greater than the minimum  
5       rate of pay payable for a position at GS–15 of the  
6       General Schedule.”.

7               (2) APPLICATION.—The amendment made by  
8       paragraph (1) shall apply to any vacancy first occur-  
9       ring with respect to an Inspector General position on  
10      or after the date of enactment of this Act.

11      (e) TESTIMONY OF ACTING OFFICIALS BEFORE CON-  
12      GRESS.—Section 3345 of title 5, United States Code, as  
13      amended by subsection (d)(1), is further amended by add-  
14      ing at the end the following:

15      “(g)(1) Any individual serving as an acting officer  
16      due to a vacancy to which this section applies, or any indi-  
17      vidual who has served in such capacity and continues to  
18      perform the same or similar duties beyond the time limits  
19      described in section 3346, shall appear, at least once dur-  
20      ing any 60-day period that the individual is so serving,  
21      before the appropriate committees of jurisdiction of the  
22      House of Representatives and the Senate.

23      “(2) Paragraph (1) may be waived upon mutual  
24      agreement of the chairs and ranking members of such  
25      committees.”.

1 (f) TIME LIMITATION FOR PRINCIPAL OFFICERS.—

2 Section 3346 of title 5, United States Code, is amended—

3 (1) in subsection (a), by inserting “or as pro-  
4 vided in subsection (d)” after “sickness”; and

5 (2) by adding at the end the following:

6 “(d) With respect to the vacancy of the position of  
7 head of any agency listed in subsection (b) of section 901  
8 of title 31, or any other position that is within the Presi-  
9 dent’s cabinet and to which this section applies, sub-  
10 sections (a) through (c) of this section and sections  
11 3348(c), 3349(b), and 3349a(b) shall be applied by sub-  
12 stituting ‘120’ for ‘210’ in each instance.”.

13 (g) EXCLUSIVITY.—Section 3347 of title 5, United  
14 States Code, is amended—

15 (1) by redesignating subsection (b) as sub-  
16 section (c); and

17 (2) by inserting after subsection (a) the fol-  
18 lowing:

19 “(b) Notwithstanding subsection (a), any statutory  
20 provision covered under paragraph (1) of such subsection  
21 that contains a non-discretionary order or directive to des-  
22 ignate an officer or employee to perform the functions and  
23 duties of a specified office temporarily in an acting capac-  
24 ity shall be the exclusive means for temporarily author-

1 izing an acting official to perform the functions and duties  
2 of such office.”.

3 (h) REPORTING OF VACANCIES.—

4 (1) IN GENERAL.—Section 3349 of title 5,  
5 United States Code, is amended—

6 (A) in subsection (a)—

7 (i) by striking “immediately upon” in  
8 each instance and inserting “not later than  
9 7 days after”;

10 (ii) in paragraph (3), by striking  
11 “and” at the end;

12 (iii) in paragraph (4), by striking the  
13 period at the end and inserting “; and”;  
14 and

15 (iv) by adding at the end the fol-  
16 lowing:

17 “(5) notification of the end of the term of serv-  
18 ice of any person serving in an acting capacity and  
19 the name of any subsequent person serving in an  
20 acting capacity and the date the service of such sub-  
21 sequent person began not later than 7 days after  
22 such date.”; and

23 (B) in subsection (b), by striking “imme-  
24 diately” and inserting “not later than 14 days  
25 after the date of such determination”.

1           (2) TECHNICAL CORRECTIONS.—Paragraphs  
2           (1) and (2) of subsection (b) of such section 3349  
3           are amended to read as follows:

4           “(1) the Committee on Homeland Security and  
5           Governmental Affairs of the Senate;

6           “(2) the Committee on Oversight and Reform  
7           of the House of Representatives;”.

8           (i) VACANCIES DURING PRESIDENTIAL INAUGURAL  
9           TRANSITIONS.—Subsection (b) of section 3349a of title 5,  
10          United States Code, is amended to read as follows:

11          “(b) Notwithstanding section 3346 (except as pro-  
12          vided in paragraph (2) of this subsection) or 3348(c), with  
13          respect to any vacancy that exists on a transitional inau-  
14          guration day, or that arises during the 60-day period be-  
15          ginning on such day, the person serving as an acting offi-  
16          cer as described under section 3345 may serve in the of-  
17          fice—

18                 “(1) for no longer than 300 days beginning on  
19                 such day; or

20                 “(2) subject to subsection 3346(b), once a first  
21                 or second nomination for the office is submitted to  
22                 the Senate, from the date of such nomination for the  
23                 period that the nomination is pending in the Sen-  
24                 ate.”.

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