

116TH CONGRESS  
2D SESSION

# H. R. 6689

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 1, 2020

Ms. PORTER 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”.

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

7 **ACT OF 1998.**

8 (a) **FIRST ASSISTANT REQUIREMENTS.**—Section  
9 3345 of title 5, United States Code, is amended as follows:

1 (1) In subsection (a)—

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

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

12 “(A) the officer or employee served in a  
13 position in such agency for a period of at least  
14 1 year preceding the date of death, resignation,  
15 or beginning of inability to serve of the applica-  
16 ble officer; and”.

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

18 “(d) For purposes of this section, a position shall be  
19 considered to be the first assistant to the office with re-  
20 spect to which a vacancy occurs only if such position has  
21 been designated, at least 30 days before the date of the  
22 vacancy, by law, rule, or regulation as the first assistant  
23 position. The previous sentence shall begin to apply on the  
24 date that is 180 days after the date of enactment of the  
25 Accountability for Acting Officials Act.

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

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

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

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

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

20       (c) APPLICATION TO INDIVIDUALS REMOVED FROM  
21 OFFICE.—Paragraph (2) of section 3345(c) of title 5,  
22 United States Code, is amended by inserting after “the  
23 expiration of a term of office” the following: “or removal  
24 (voluntarily or involuntarily) from office”.

25       (d) VACANCY OF INSPECTOR GENERAL POSITIONS.—

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

5           “(f)(1) Notwithstanding subsection (a), if an Inspec-  
6           tor General position that requires appointment by the  
7           President by and with the advice and consent of the Sen-  
8           ate to be filled is vacant, the first assistant (if any) of  
9           such position shall serve as the acting Inspector General.

10          “(2) Notwithstanding subsection (a), if for purposes  
11          of carrying out paragraph (1) of this subsection there is  
12          no first assistant, an acting Inspector General shall be ap-  
13          pointed by the President from among individuals serving  
14          in an office of any Inspector General who occupy a posi-  
15          tion at the Senior Executive Service level or higher.”.

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

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

24          “(g)(1) Any individual serving as an acting officer  
25          due to a vacancy to which this section applies, or any indi-

1 vidual who has served in such capacity and continues to  
2 perform the same or similar duties beyond the time limits  
3 described in section 3346, shall appear, at least once dur-  
4 ing any 60-day period that the individual is so serving,  
5 before the appropriate committees of jurisdiction of the  
6 House of Representatives and the Senate.

7 “(2) Paragraph (1) may be waived upon mutual  
8 agreement of the chairs and ranking members of such  
9 committees.”.

10 (f) TIME LIMITATION FOR PRINCIPAL OFFICERS.—

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

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

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

15 “(d) With respect to the vacancy of the position of  
16 head of any agency listed in subsection (b) of section 901  
17 of title 31, or any other position that is within the Presi-  
18 dent’s cabinet and to which this section applies, sub-  
19 sections (a) through (c) of this section and sections  
20 3348(c), 3349(b), and 3349a(b) shall be applied by sub-  
21 stituting ‘120’ for ‘210’ in each instance.”.

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

24 (1) by redesignating subsection (b) as sub-  
25 section (c); and

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

3           “(b) Notwithstanding subsection (a), any statutory  
4           provision covered under paragraph (1) of such subsection  
5           that contains a non-discretionary order or directive to des-  
6           ignate an officer or employee to perform the functions and  
7           duties of a specified office temporarily in an acting capac-  
8           ity shall be the exclusive means for temporarily author-  
9           izing an acting official to perform the functions and duties  
10          of such office.”.

11          (h) REPORTING OF VACANCIES.—

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

14           (A) in subsection (a)—

15           (i) by striking “immediately upon” in  
16           each instance and inserting “not later than  
17           7 days after”;

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

20           (iii) in paragraph (4), by striking the  
21           period at the end and inserting “; and”;  
22           and

23           (iv) by adding at the end the fol-  
24           lowing:

1           “(5) notification of the end of the term of serv-  
2           ice of any person serving in an acting capacity and  
3           the name of any subsequent person serving in an  
4           acting capacity and the date the service of such sub-  
5           sequent person began not later than 7 days after  
6           such date.”; and

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

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

13                       “(1) the Committee on Homeland Security and  
14                       Governmental Affairs of the Senate;

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

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

20                       “(b) Notwithstanding section 3346 (except as pro-  
21                       vided in paragraph (2) of this subsection) or 3348(c), with  
22                       respect to any vacancy that exists on a transitional inau-  
23                       guration day, or that arises during the 60-day period be-  
24                       ginning on such day, the person serving as an acting offi-

1 cer as described under section 3345 may serve in the of-  
2 fice—

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

5           “(2) subject to subsection 3346(b), once a first  
6 or second nomination for the office is submitted to  
7 the Senate, from the date of such nomination for the  
8 period that the nomination is pending in the Sen-  
9 ate.”.

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