

111TH CONGRESS  
1ST SESSION

# S. 1180

To provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service.

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IN THE SENATE OF THE UNITED STATES

JUNE 4, 2009

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service.

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 “Senior Executive Serv-  
5       ice Diversity Assurance Act of 2009”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) according to the most recent findings from  
9       the Government Accountability Office—

1 (A) minorities made up 22.5 percent of the  
2 individuals serving at the GS-15 and GS-14  
3 levels and 15.8 percent of the Senior Executive  
4 Service in 2007;

5 (B) women made up 34.3 percent of the  
6 individuals serving at the GS-15 and GS-14  
7 levels and 29.1 percent of the Senior Executive  
8 Service in 2007; and

9 (C) although the number of career Senior  
10 Executive Service members increased from  
11 6,110 in 2,000 to 6,555 in 2007, the represen-  
12 tation of African-American men in the career  
13 Senior Executive Service declined during that  
14 same period from 5.5 percent to 5.0 percent;  
15 and

16 (2) according to the Office of Personnel Man-  
17 agement—

18 (A) Black employees represented 6.1 per-  
19 cent of employees at the Senior Pay levels and  
20 17.9 percent of the permanent Federal work-  
21 force compared to 10 percent in the civilian  
22 labor force in 2008;

23 (B) Hispanic employees represented 4.0  
24 percent of employees at the Senior Pay levels  
25 and 7.9 percent of the permanent Federal

1 workforce compared to 13.2 percent of the civil-  
2 ian labor force in 2008; and

3 (C) women represented 29.1 percent of  
4 employees at the Senior Pay levels and 44.2  
5 percent of the permanent Federal workforce  
6 compared to 45.6 percent of the civilian labor  
7 force in 2008.

8 **SEC. 3. DEFINITIONS.**

9 In this Act—

10 (1) the term “Director” means the Director of  
11 the Office of Personnel Management;

12 (2) the term “Senior Executive Service” has the  
13 meaning given under section 2101a of title 5, United  
14 States Code;

15 (3) the terms “agency”, “career appointee”,  
16 and “career reserved position” have the meanings  
17 given under section 3132 of title 5, United States  
18 Code; and

19 (4) the term “SES Resource Office” means the  
20 Senior Executive Service Resource Office established  
21 under section 4.

22 **SEC. 4. SENIOR EXECUTIVE SERVICE RESOURCE OFFICE.**

23 (a) ESTABLISHMENT.—Not later than 180 days after  
24 the date of the enactment of this Act, the Director shall  
25 establish within the Office of Personnel Management an

1 office to be known as the Senior Executive Service Re-  
2 source Office.

3 (b) MISSION.—The mission of the SES Resource Of-  
4 fice shall be to—

5 (1) improve the efficiency, effectiveness, and  
6 productivity of the Senior Executive Service through  
7 policy formulation and oversight;

8 (2) advance the professionalism of the Senior  
9 Executive Service; and

10 (3) ensure that, in seeking to achieve a Senior  
11 Executive Service reflective of the Nation’s diversity,  
12 recruitment is from qualified individuals from appro-  
13 priate sources.

14 (c) FUNCTIONS.—

15 (1) IN GENERAL.—The functions of the SES  
16 Resource Office are to—

17 (A) make recommendations to the Director  
18 with respect to regulations; and

19 (B) provide guidance to agencies, con-  
20 cerning the structure, management, and diverse  
21 composition of the Senior Executive Service.

22 (2) SPECIFIC FUNCTIONS.—In order to carry  
23 out the purposes of this section, the SES Resource  
24 Office shall—

1 (A) take such actions as the SES Resource  
2 Office considers necessary to manage and pro-  
3 mote an efficient, elite, and diverse corps of  
4 senior executives by—

5 (i) creating policies for the manage-  
6 ment and improvement of the Senior Exec-  
7 utive Service;

8 (ii) providing oversight of the per-  
9 formance, structure, and composition of  
10 the Senior Executive Service; and

11 (iii) providing guidance and oversight  
12 to agencies in the management of senior  
13 executives and candidates for the Senior  
14 Executive Service;

15 (B) be responsible for the policy develop-  
16 ment, management, and oversight of the Senior  
17 Executive Service pay and performance man-  
18 agement system;

19 (C) develop standards for certification of  
20 each agency's Senior Executive Service per-  
21 formance management system and evaluate all  
22 agency applications for certification;

23 (D) be responsible for coordinating, pro-  
24 moting, and monitoring programs for the ad-  
25 vancement and training of senior executives, in-

1 including the Senior Executive Service Federal  
2 Candidate Development Program;

3 (E) provide oversight of, and guidance to,  
4 agency executive resources boards;

5 (F) be responsible for the administration  
6 of the qualifications review board;

7 (G) establish and maintain annual statis-  
8 tics (in a form that renders such statistics use-  
9 ful to appointing authorities and candidates)  
10 on—

11 (i) the total number of career reserved  
12 positions at each agency;

13 (ii) the total number of vacant career  
14 reserved positions at each agency;

15 (iii) of the positions under clause (ii),  
16 the number for which candidates are being  
17 sought;

18 (iv) the amount of time a career re-  
19 served position is vacant;

20 (v) the amount of time it takes to hire  
21 a candidate into a career reserved position;

22 (vi) the number of individuals who  
23 have been certified in accordance with sec-  
24 tion 3393(c) of title 5, United States Code,  
25 and the composition of that group of indi-

1           viduals with regard to race, ethnicity, sex,  
2           age, and individuals with disabilities;

3           (vii) the composition of the Senior Ex-  
4           ecutive Service with regard to race, eth-  
5           nicity, sex, age, and individuals with dis-  
6           abilities;

7           (viii) the composition of executive re-  
8           sources boards with regard to race, eth-  
9           nicity, sex, and individuals with disabilities;  
10          and

11          (ix) the composition of qualifications  
12          review boards with regard to race, eth-  
13          nicity, sex, and individuals with disabilities;

14          (H) make available to the public through  
15          the official public Internet site of the Office of  
16          Personnel Management, the data collected  
17          under subparagraph (G);

18          (I) establish and promote mentoring pro-  
19          grams for potential candidates for the Senior  
20          Executive Service, including candidates who  
21          have been certified as having the executive  
22          qualifications necessary for initial appointment  
23          as a career appointee under a program estab-  
24          lished under to section 3396(a) of title 5,  
25          United States Code;

1           (J) conduct a continuing program for the  
2 recruitment of women, members of racial and  
3 ethnic minority groups, and individuals with  
4 disabilities for Senior Executive Service posi-  
5 tions, with special efforts directed at recruiting  
6 from educational institutions, professional asso-  
7 ciations, and other sources;

8           (K) advise agencies on the best practices  
9 for an agency in utilizing or consulting with an  
10 agency's equal employment or diversity office or  
11 official (if the agency has such an office or offi-  
12 cial) with regard to the agency's Senior Execu-  
13 tive Service appointments process; and

14           (L) evaluate and implement strategies to  
15 ensure that agencies conduct appropriate out-  
16 reach to other agencies to identify candidates  
17 for Senior Executive Service positions.

18       (d) PROTECTION OF INDIVIDUALLY IDENTIFIABLE  
19 INFORMATION.—For purposes of subsection (c)(2)(H), the  
20 SES Resource Office shall combine data for any agency  
21 that is not named in section 901(b) of chapter 31, United  
22 States Code, to protect individually identifiable informa-  
23 tion.

24       (e) COOPERATION OF AGENCIES.—The head of each  
25 agency shall provide the Office of Personnel Management



1 with such information as the SES Resource Office may  
2 require in order to carry out subsection (c)(2)(G).

3 (f) STAFFING.—The Director of the Office of Per-  
4 sonnel Management shall make such appointments as nec-  
5 essary to staff the SES Resource Office.

6 **SEC. 5. CAREER APPOINTMENTS.**

7 (a) PROMOTING DIVERSITY IN THE CAREER AP-  
8 POINTMENTS PROCESS.—Section 3393(b) of title 5,  
9 United States Code, is amended by inserting after the first  
10 sentence the following: “In establishing an executive re-  
11 sources board, the head of the agency shall, to the extent  
12 practicable, ensure diversity of the board and of any sub-  
13 group thereof or other evaluation panel related to the  
14 merit staffing process for career appointees, by including  
15 members of racial and ethnic minority groups, women, and  
16 individuals with disabilities.”.

17 (b) REGULATIONS.—Not later than 1 year after the  
18 date of the enactment of this Act, the Director shall pro-  
19 mulgate regulations to implement subsection (a).

20 (c) REPORT.—Not later than 1 year after the date  
21 of the enactment of this Act, the Director shall submit  
22 to the Committee on Homeland Security and Govern-  
23 mental Affairs of the Senate and the Committee on Over-  
24 sight and Government Reform of the House of Represent-  
25 atives a report evaluating agency efforts to improve diver-

1 sity in executive resources boards based on the informa-  
 2 tion collected by the SES Resource Office under section  
 3 4(c)(2)(G) (viii) and (ix).

4 **SEC. 6. ENCOURAGING A MORE DIVERSE SENIOR EXECU-**  
 5 **TIVE SERVICE.**

6 (a) SENIOR EXECUTIVE SERVICE DIVERSITY  
 7 PLANS.—

8 (1) IN GENERAL.—Not later than 1 year after  
 9 the date of the enactment of this Act, each agency,  
 10 in consultation with the Office of Personnel Manage-  
 11 ment and the Chief Human Capital Officers Council,  
 12 shall submit to the Office of Personnel Management  
 13 a plan to enhance and maximize opportunities for  
 14 the advancement and appointment of minorities,  
 15 women, and individuals with disabilities in the agen-  
 16 cy to the Senior Executive Service. Agency plans  
 17 shall be reflected in the strategic human capital  
 18 plan.

19 (2) CONTENTS.—Agency plans shall address  
 20 how the agency is identifying and eliminating bar-  
 21 riers that impair the ability of minorities, women,  
 22 and individuals with disabilities to obtain appoint-  
 23 ments to the Senior Executive Service and any ac-  
 24 tions the agency is taking to provide advancement  
 25 opportunities, including—

1 (A) conducting outreach to minorities,  
2 women, and individuals within the agency and  
3 outside the agency;

4 (B) establishing and maintaining training  
5 and education programs to foster leadership de-  
6 velopment;

7 (C) identifying career enhancing opportuni-  
8 ties for agency employees;

9 (D) assessing internal availability of can-  
10 didates for Senior Executive Service positions;  
11 and

12 (E) conducting an inventory of employee  
13 skills and addressing current and potential gaps  
14 in skills and the distribution of skills.

15 (3) UPDATE OF AGENCY PLANS.—Agency plans  
16 shall be updated at least every 2 years during the  
17 10 years following enactment of this Act. An agency  
18 plan shall be reviewed by the Office of Personnel  
19 Management and, if determined to provide sufficient  
20 assurances, procedures, and commitments to provide  
21 adequate opportunities for the advancement and ap-  
22 pointment of minorities, women, and individuals  
23 with disabilities to the Senior Executive Service,  
24 shall be approved by such Office. An agency may, in  
25 updating its plan, submit to the Office of Personnel

1 Management an assessment of the impacts of the  
2 plan.

3 (b) SUMMARY AND EVALUATION.—Not later than  
4 180 days after the deadline for the submission of any re-  
5 port or update under subsection (a), the Director shall  
6 transmit to the Committee on Homeland Security and  
7 Governmental Affairs of the Senate and the Committee  
8 on Oversight and Government Reform of the House of  
9 Representatives a report summarizing and evaluating the  
10 agency plans or updates (as the case may be) so sub-  
11 mitted.

12 (c) COORDINATION.—The Office of Personnel Man-  
13 agement shall, in carrying out subsection (a), evaluate ex-  
14 isting requirements under section 717 of the Civil Rights  
15 Act of 1964 (42 U.S.C. 2000e–16) and section 501 of the  
16 Rehabilitation Act of 1973 (29 U.S.C. 791) and determine  
17 how agency reporting can be performed so as to be con-  
18 sistent with, but not duplicative of, such sections and any  
19 other similar requirements.

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