

Public Law 112–166
112th Congress

An Act

To reduce the number of executive positions subject to Senate confirmation.

Aug. 10, 2012

[S. 679]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Presidential
Appointment
Efficiency and
Streamlining Act
of 2011.
5 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Presidential Appointment Efficiency and Streamlining Act of 2011”.

SEC. 2. PRESIDENTIAL APPOINTMENTS NOT SUBJECT TO SENATE APPROVAL.

(a) AGRICULTURE.—

(1) ASSISTANT SECRETARY OF AGRICULTURE FOR ADMINISTRATION.—Section 218(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6918(b)) is amended—

(A) by striking “subsection (a)” and inserting “paragraph (1) or (3) of subsection (a)”;

(B) by striking subsection (c); and

(C) by redesignating subsection (d) as subsection (c).

(2) RURAL UTILITIES SERVICE ADMINISTRATOR.—Section 232(b)(1) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6942(b)(1)) is amended—

(A) by striking “, by and with the advice and consent of the Senate”;

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

5 USC 5315.

(3) COMMODITY CREDIT CORPORATION.—Section 9(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714g(a)) is amended in the third sentence by striking “by and with the advice and consent of the Senate”.

(b) COMMERCE.—

(1) CHIEF SCIENTIST; NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—Section 2(d) of Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) is amended by striking “, by and with the advice and consent of the Senate.”.

15 USC 1511
note.

(c) DEPARTMENT OF DEFENSE.—

(1) ASSISTANT SECRETARIES OF DEFENSE.—

(A) IN GENERAL.—Section 138(a)(1) of title 10, United States Code, is amended by striking “16” and inserting “14”.

(B) ADMINISTRATION OF REDUCTION.—The Assistant Secretary of Defense positions eliminated in accordance with the reduction in numbers required by the amendment made by subparagraph (A) shall be—

10 USC 138 note.

(i) the Assistant Secretary of Defense for Networks and Information Integration; and

(ii) the Assistant Secretary of Defense for Public Affairs.

(C) CONTINUED SERVICE OF INCUMBENTS.—Notwithstanding the requirements of this paragraph, any individual serving in a position described under subparagraph (B) on the date of the enactment of this Act may continue to serve in such position without regard to the limitation imposed by the amendment in subparagraph (A).

Deadline.
Reports.

(D) PLAN FOR SUCCESSOR POSITIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall report to the congressional defense committees on his plan for successor positions, not subject to Senate confirmation, for the positions eliminated in accordance with the requirements of this paragraph.

(2) MEMBERS OF NATIONAL SECURITY EDUCATION BOARD.—Section 803(b)(7) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1903(b)(7)) is amended by striking “by and with the advice and consent of the Senate,”.

(3) DIRECTOR OF SELECTIVE SERVICE.—Section 10(a)(3) of the Selective Service Act of 1948 (50 U.S.C. App. 460(a)(3)) is amended by striking “, by and with the advice and consent of the Senate”.

(d) DEPARTMENT OF EDUCATION.—

(1) ASSISTANT SECRETARY FOR MANAGEMENT.—Section 202(e) of the Department of Education Organization Act (20 U.S.C. 3412(e)) is amended by inserting after the first sentence the following: “Notwithstanding the previous sentence, the appointments of individuals to serve as the Assistant Secretary for Management shall not be subject to the advice and consent of the Senate.”.

(2) COMMISSIONER, EDUCATION STATISTICS.—Section 117(b) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9517(b)) is amended by striking “, by and with the advice and consent of the Senate,”.

42 USC 3501a
note.

(e) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

(1) ASSISTANT SECRETARY FOR PUBLIC AFFAIRS.—Notwithstanding any other provision of law, the appointment of an individual to serve as the Assistant Secretary for Public Affairs within the Department of Health and Human Services shall not be subject to the advice and consent of the Senate.

(f) DEPARTMENT OF HOMELAND SECURITY.—

(1) DIRECTOR OF THE OFFICE FOR DOMESTIC PREPAREDNESS; ASSISTANT ADMINISTRATOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, GRANT PROGRAMS.—Section 430(b) of the Homeland Security Act of 2002 (6 U.S.C. 238(b)) is amended by striking “, by and with the advice and consent of the Senate”.

(2) ADMINISTRATOR OF THE UNITED STATES FIRE ADMINISTRATION.—Section 5(b) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2204(b)) is amended by striking “, by and with the advice and consent of the Senate,”.

(3) DIRECTOR OF THE OFFICE OF COUNTERNARCOTICS ENFORCEMENT.—Section 878(a) of the Homeland Security Act of 2002 (6 U.S.C. 458(a)) is amended by striking “, by and with the advice and consent of the Senate”.

(4) CHIEF MEDICAL OFFICER.—Section 516(a) of the Homeland Security Act of 2002 (6 U.S.C. 321e(a)) is amended by striking “, by and with the advice and consent of the Senate”.

(5) ASSISTANT SECRETARIES.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(A) by striking “There” and inserting “(1) IN GENERAL.—Except as provided under paragraph (2), there”;

(B) by redesignating paragraphs (1) through (10) as subparagraphs (A) through (J), respectively; and

(C) by adding at the end the following:

“(2) ASSISTANT SECRETARIES.—If any of the Assistant Secretaries referred to under paragraph (1)(I) is designated to be the Assistant Secretary for Health Affairs, the Assistant Secretary for Legislative Affairs, or the Assistant Secretary for Public Affairs, that Assistant Secretary shall be appointed by the President without the advice and consent of the Senate.”.

(g) HOUSING AND URBAN DEVELOPMENT; ASSISTANT SECRETARY FOR PUBLIC AFFAIRS.—Section 4(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(a)) is amended—

(1) by inserting “(1)” after “(a)”;

(2) by striking “eight” and inserting “7”; and

(3) by adding at the end the following:

“(2) There shall be in the Department an Assistant Secretary for Public Affairs, who shall be appointed by the President and shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.”.

(h) DEPARTMENT OF JUSTICE.—

(1) DIRECTOR, BUREAU OF JUSTICE STATISTICS.—Section 302(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732(b)) is amended by striking “, by and with the advice and consent of the Senate”.

(2) DIRECTOR, BUREAU OF JUSTICE ASSISTANCE.—Section 401(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741(b)) is amended by striking “, by and with the advice and consent of the Senate”.

(3) DIRECTOR, NATIONAL INSTITUTE OF JUSTICE.—Section 202(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722(b)) is amended by striking “, by and with the advice and consent of the Senate”.

(4) ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b)) is amended by striking “, by and with the advice and consent of the Senate,”.

(5) DIRECTOR, OFFICE FOR VICTIMS OF CRIME.—Section 1411(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10605(b)) is amended by striking “, by and with the advice and consent of the Senate”.

(i) DEPARTMENT OF LABOR.—

(1) ASSISTANT SECRETARIES FOR ADMINISTRATION AND MANAGEMENT AND PUBLIC AFFAIRS.—Notwithstanding section 2 of the Act of April 17, 1946 (29 U.S.C. 553), the appointment of individuals to serve as the Assistant Secretary for Administration and Management and the Assistant Secretary for Public Affairs within the Department of Labor, shall not be subject to the advice and consent of the Senate.

29 USC 553 note.

(2) DIRECTOR OF THE WOMEN'S BUREAU.—Section 2 of the Act of June 5, 1920 (29 U.S.C. 12) is amended by striking “, by and with the advice and consent of the Senate”.

(j) DEPARTMENT OF STATE; ASSISTANT SECRETARY FOR PUBLIC AFFAIRS AND ASSISTANT SECRETARY FOR ADMINISTRATION.—Section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) is amended—

(1) by striking “, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and”; and

(2) by adding at the end the following: “Each Assistant Secretary of State shall be appointed by the President, by and with the advice and consent of the Senate, except that the appointments of the Assistant Secretary for Public Affairs and the Assistant Secretary for Administration shall not be subject to the advice and consent of the Senate.”

(k) DEPARTMENT OF TRANSPORTATION.—

(1) ASSISTANT SECRETARIES.—Section 102(e) of title 49, United States Code, is amended—

(A) by striking “(e) THE DEPARTMENT” and all that follows through “An Assistant Secretary” and inserting the following:

“(e) ASSISTANT SECRETARIES; GENERAL COUNSEL.—

“(1) APPOINTMENT.—The Department has 5 Assistant Secretaries and a General Counsel, including—

“(A) an Assistant Secretary for Aviation and International Affairs, an Assistant Secretary for Governmental Affairs, and an Assistant Secretary for Transportation Policy, who shall each be appointed by the President, with the advice and consent of the Senate;

“(B) an Assistant Secretary for Budget and Programs who shall be appointed by the President;

“(C) an Assistant Secretary for Administration, who shall be appointed by the Secretary, with the approval of the President; and

“(D) a General Counsel, who shall be appointed by the President, with the advice and consent of the Senate.

“(2) DUTIES AND POWERS.—The officers set forth in paragraph (1) shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary”.

(2) DEPUTY ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION.—Section 106 of title 49, United States Code, is amended—

(A) in subsection (b), by striking “. The Administration has a Deputy Administrator. They are appointed” and inserting “, who shall be appointed”; and

(B) in subsection (d)(1), by striking “The Deputy Administrator must” and inserting “The Administration has a Deputy Administrator, who shall be appointed by the President. In making an appointment, the President shall consider the fitness of the appointee to efficiently carry out the duties and powers of the office. The Deputy Administrator shall”.

(l) DEPARTMENT OF THE TREASURY.—

(1) ASSISTANT SECRETARIES FOR PUBLIC AFFAIRS AND MANAGEMENT.—Section 301(e) of title 31, United States Code, is amended—

(A) by striking “10 Assistant Secretaries” and inserting “8 Assistant Secretaries”; and

(B) by inserting “The Department shall have 2 Assistant Secretaries not subject to the advice and consent of the Senate who shall be the Assistant Secretary for Public Affairs, and the Assistant Secretary for Management.” after the first sentence.

(2) TREASURER OF THE UNITED STATES.—Section 301(d) of title 31, United States Code, is amended—

(A) by striking “2 Deputy Under Secretaries, and a Treasurer of the United States” and inserting “and 2 Deputy Under Secretaries”, and

(B) by inserting “and a Treasurer of the United States appointed by the President” after “Fiscal Assistant Secretary appointed by the Secretary”.

(m) DEPARTMENT OF VETERANS AFFAIRS.—Section 308(a) of title 38, United States Code, is amended—

(1) by striking “There shall” and inserting “(1) There shall”;

(2) in paragraph (1), as designated by paragraph (1) of this subsection, by striking “Each Assistant” and all that follows through the period at the end; and

(3) by adding at the end the following new paragraphs:

“(2) Except as provided in paragraph (3), each Assistant Secretary appointed under paragraph (1) shall be appointed by the President, by and with the advice and consent of the Senate.

“(3) The following Assistant Secretaries may be appointed without the advice and consent of the Senate:

“(A) The Assistant Secretary for Management.

“(B) The Assistant Secretary for Human Resources and Administration.

“(C) The Assistant Secretary for Public and Intergovernmental Affairs.

“(D) The Assistant Secretary for Operations, Security, and Preparedness.”.

(n) APPALACHIAN REGIONAL COMMISSION; ALTERNATE FEDERAL CO-CHAIRMAN.—Section 14301(b)(2) of title 40, United States Code, is amended by striking “by and with the advice and consent of the Senate”.

(o) COUNCIL OF ECONOMIC ADVISERS, MEMBERS.—Section 10 of the Employment Act of 1946 (15 U.S.C. 1023) is amended by striking subsection (a) and inserting the following:

“(a) CREATION; COMPOSITION; QUALIFICATIONS; CHAIRMAN AND VICE CHAIRMAN.—

“(1) CREATION.—There is created in the Executive Office of the President a Council of Economic Advisers (hereinafter called the ‘Council’).

“(2) COMPOSITION.—The Council shall be composed of three members, of whom—

“(A) 1 shall be the chairman who shall be appointed by the President by and with the advice and consent of the Senate; and

“(B) 2 shall be appointed by the President.

“(3) QUALIFICATIONS.—Each member shall be a person who, as a result of training, experience, and attainments, is exceptionally qualified to analyze and interpret economic developments, to appraise programs and activities of the Government in the light of the policy declared in section 2,

and to formulate and recommend national economic policy to promote full employment, production, and purchasing power under free competitive enterprise.

“(4) VICE CHAIRMAN.—The President shall designate 1 of the members of the Council as vice chairman, who shall act as chairman in the absence of the chairman.”

(p) CORPORATION FOR NATIONAL AND COMMUNITY SERVICE; MANAGING DIRECTOR.—Section 194(a)(1) of the National and Community Service Act of 1990 (42 U.S.C. 12651e(a)(1)) is amended by striking “, by and with the advice and consent of the Senate”.

(q) NATIONAL COUNCIL ON DISABILITY MEMBERS.—Section 400(a)(1)(A) of the Rehabilitation Act of 1973 (29 U.S.C. 780(a)(1)(A)) is amended by striking “, by and with the advice and consent of the Senate”.

(r) NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES; NATIONAL MUSEUM AND LIBRARY SERVICES BOARD; MEMBERS.—Section 207(b)(1) of the Museum and Library Services Act (20 U.S.C. 9105a(b)(1)) is amended—

(1) in subparagraph (D), by striking “, by and with the advice and consent of the Senate”; and

(2) in subparagraph (E), by striking “, by and with the advice and consent of the Senate”.

(s) NATIONAL SCIENCE FOUNDATION; BOARD MEMBERS.—Section 4(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(a)) is amended by striking “, by and with the advice and consent of the Senate”.

(t) OFFICE OF NATIONAL DRUG CONTROL POLICY; DEPUTY DIRECTORS.—Section 704(a)(1) of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1703(a)(1)) is amended to read as follows:

“(1) IN GENERAL.—

“(A) DIRECTOR.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.

“(B) DEPUTY DIRECTORS.—The Deputy Director of National Drug Control Policy, Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Deputy Director for State, Local, and Tribal Affairs shall each be appointed by the President and serve at the pleasure of the President.

“(C) DEPUTY DIRECTOR FOR DEMAND REDUCTION.—In appointing the Deputy Director for Demand Reduction under this paragraph, the President shall take into consideration the scientific, educational, or professional background of the individual, and whether the individual has experience in the fields of substance abuse prevention, education, or treatment.”

(u) OFFICE OF NAVAJO AND HOPI RELOCATION; COMMISSIONER.—Section 12(b)(1) of Public Law 93-531 (25 U.S.C. 640d-11(b)(1)) is amended by striking “by and with the advice and consent of the Senate”.

(v) UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—

(1) ASSISTANT ADMINISTRATOR FOR MANAGEMENT.—Notwithstanding section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)), the appointment by the President of the Assistant Administrator for Management at the United States

Agency for International Development shall not be subject to the advice and consent of the Senate.

(w) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION FUND; ADMINISTRATOR.—Section 104(b)(1) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(b)(1)) is amended by striking “, by and with the advice and consent of the Senate”.

(x) DEPARTMENT OF TRANSPORTATION; ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION; ADMINISTRATOR.—Subsection (a) of section 2 of the Act of May 13, 1954, referred to as the Saint Lawrence Seaway Act (33 U.S.C. 982(a)) is amended by striking “, by and with the advice and consent of the Senate, for a term of seven years”.

(y) MISSISSIPPI RIVER COMMISSION; COMMISSIONER.—Section 2 of the Act of June 28, 1879 (33 U.S.C. 642), is amended in the first sentence by striking “, by and with the advice and consent of the Senate.”.

(z) GOVERNOR AND ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT BANK.—

(1) IN GENERAL.—Section 1333 of the African Development Bank Act (22 U.S.C. 290i-1) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by striking “(a) The President” and all that follows through “The term of office” and inserting the following:

“(a) The President shall appoint a Governor and an Alternate Governor of the Bank—

“(1) by and with the advice and consent of the Senate;

or

“(2) from among individuals serving as officials required by law to be appointed by and with the advice and consent of the Senate.

“(b) The term of office”.

(2) CONFORMING AMENDMENTS.—Section 1334 of such Act (22 U.S.C. 290i-2) is amended—

(A) by striking “The Director or Alternate Director” and inserting the following:

“(b) The Director or Alternate Director”; and

(B) by inserting before subsection (b), as redesignated, the following:

“(a) The President, by and with the advice and consent of the Senate, shall appoint a Director of the Bank.”.

(aa) GOVERNOR AND ALTERNATE GOVERNOR OF THE ASIAN DEVELOPMENT BANK.—Section 3(a) of the Asian Development Bank Act (22 U.S.C. 285a(a)) is amended to read as follows:

“(a) The President shall appoint—

“(1) a Governor of the Bank and an alternate for the Governor—

“(A) by and with the advice and consent of the Senate;

or

“(B) from among individuals serving as officials required by law to be appointed by and with the advice and consent of the Senate; and

“(2) a Director of the Bank, by and with the advice and consent of the Senate.”.

(bb) GOVERNOR AND ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT FUND.—Section 203(a) of the African Development Fund Act (22 U.S.C. 290g-1(a)) is amended to read as follows:

“(a) The President shall appoint a Governor, and an Alternate Governor, of the Fund—

“(1) by and with the advice and consent of the Senate;

or

“(2) from among individuals serving as officials required by law to be appointed by and with the advice and consent of the Senate.”.

(cc) NATIONAL BOARD FOR EDUCATION SCIENCES; MEMBERS.—Section 116(c)(1) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9516(c)(1)) is amended by striking “, by and with the advice and consent of the Senate”.

(dd) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD; MEMBERS.—Section 242(e)(1)(A) of the Adult Education and Family Literacy Act (20 U.S.C. 9252(e)(1)(A)) is amended by striking “with the advice and consent of the Senate”.

(ee) INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT; MEMBER, BOARD OF TRUSTEES.—Section 1505 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4412(a)(1)(A)) is amended by striking “by and with the advice and consent of the Senate”.

(ff) PUBLIC HEALTH SERVICE COMMISSIONED OFFICER CORPS.—

(1) APPOINTMENT.—Section 203(a)(3) of the Public Health Service Act (42 U.S.C. 204(a)(3)) is amended by striking “with the advice and consent of the Senate”.

(2) PROMOTIONS.—Section 210(a) of the Public Health Service Act (42 U.S.C. 211(a)) is amended by striking “, by and with the advice and consent of the Senate”.

(gg) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS.—

(1) APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.—Section 226 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3026) is amended by striking “, by and with the advice and consent of the Senate”.

(2) POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—Section 228(d)(1) of such Act (33 U.S.C. 3028(d)(1)) is amended by striking “, by and with the advice and consent of the Senate”.

(3) TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY.—Section 229 of such Act (33 U.S.C. 3029) is amended—

(A) by striking “alone” each place it appears; and

(B) in subsection (a), in the second sentence, by striking “unless the Senate sooner gives its advice and consent to the appointment”.

5 USC 3132 note.

(hh) RULE OF CONSTRUCTION.—Notwithstanding section 3132(a)(2) of title 5, United States Code, removal of Senate confirmation for any position in this section shall not—

(1) result in any such position being placed in the Senior Executive Service; or

(2) alter compensation for any such position under the Executive Schedule or other applicable compensation provisions of law.

SEC. 3. APPOINTMENT OF THE DIRECTOR OF THE CENSUS.

(a) **IN GENERAL.**—Section 21 of the title 13, United States Code, is amended to read as follows:

“§ 21. Director of the Census; duties

“(a) **APPOINTMENT.**—

“(1) **IN GENERAL.**—The Bureau shall be headed by a Director of the Census, appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation.

“(2) **QUALIFICATIONS.**—Such appointment shall be made from individuals who have a demonstrated ability in managing large organizations and experience in the collection, analysis, and use of statistical data.

“(b) **TERM OF OFFICE.**—

“(1) **IN GENERAL.**—The term of office of the Director shall be 5 years, and shall begin on January 1, 2012, and every fifth year thereafter. An individual may not serve more than 2 full terms as Director.

“(2) **VACANCIES.**—Any individual appointed to fill a vacancy in such position, occurring before the expiration of the term for which such individual’s predecessor was appointed, shall be appointed for the remainder of that term. The Director may serve after the end of the Director’s term until reappointed or until a successor has been appointed, but in no event longer than 1 year after the end of such term.

“(3) **REMOVAL.**—An individual serving as Director may be removed from office by the President. The President shall communicate in writing the reasons for any such removal to both Houses of Congress not later than 60 days before the removal.

“(4) **PERSONNEL ACTIONS.**—Except as provided under paragraph (3), nothing in this subsection shall prohibit a personnel action otherwise authorized by law with respect to the Director of the Census, other than removal.

“(c) **DUTIES.**—The Director shall perform such duties as may be imposed upon the Director by law, regulations, or orders of the Secretary.”

(b) **TRANSITION RULES.**—

(1) **APPOINTMENT OF INITIAL DIRECTOR.**—The initial Director of the Bureau of the Census shall be appointed in accordance with the provisions of section 21(a) of title 13, United States Code, as amended by subsection (a).

(2) **INTERIM ROLE OF CURRENT DIRECTOR OF THE CENSUS AFTER DATE OF ENACTMENT.**—If, as of January 1, 2012, the initial Director of the Bureau of the Census has not taken office, the officer serving on December 31, 2011, as Director of the Census (or Acting Director of the Census, if applicable) in the Department of Commerce—

(A) shall serve as the Director of the Bureau of the Census; and

(B) shall assume the powers and duties of such Director for one term beginning January 1, 2012, as described in section 21(b) of such title, as so amended.

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—Not later than January 1, 2012, the Secretary of Commerce, in consultation with the Director of the Census, shall submit to each House of the

Notification.
Deadline.

13 USC 21 note.

Deadline.
Submission.
13 USC 21 note.

Congress draft legislation containing any technical and conforming amendments to title 13, United States Code, and any other provisions which may be necessary to carry out the purposes of this section.

SEC. 4. WORKING GROUP ON STREAMLINING PAPERWORK FOR EXECUTIVE NOMINATIONS.

(a) **ESTABLISHMENT.**—There is established the Working Group on Streamlining Paperwork for Executive Nominations (in this section referred to as the “Working Group”).

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Working Group shall be composed of—

(A) the chairperson who shall be—

(i) except as provided under clause (ii), the Director of the Office of Presidential Personnel; or

(ii) a Federal officer designated by the President;

(B) representatives designated by the President from—

(i) the Office of Personnel Management;

(ii) the Office of Government Ethics; and

(iii) the Federal Bureau of Investigation; and

(C) individuals appointed by the chairperson of the Working Group who have experience and expertise relating to the Working Group, including—

(i) individuals from other relevant Federal agencies; and

(ii) individuals with relevant experience from previous presidential administrations.

(c) **STREAMLINING OF PAPERWORK REQUIRED FOR EXECUTIVE NOMINATIONS.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Working Group shall conduct a study and submit a report on the streamlining of paperwork required for executive nominations to—

(A) the President;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Rules and Administration of the Senate.

(2) **CONSULTATION WITH COMMITTEES OF THE SENATE.**—In conducting the study under this section, the Working Group shall consult with the chairperson and ranking member of the committees referred to under paragraph (1) (B) and (C).

(3) **CONTENTS.**—

(A) **IN GENERAL.**—The report submitted under this section shall include—

(i) recommendations for the streamlining of paperwork required for executive nominations; and

(ii) a detailed plan for the creation and implementation of an electronic system for collecting and distributing background information from potential and actual Presidential nominees for positions which require appointment by and with the advice and consent of the Senate.

(B) **ELECTRONIC SYSTEM.**—The electronic system described under subparagraph (A)(ii) shall—

(i) provide for—

Deadline.
Study.
Reports.

Recommendations.
Plans.

- (I) less burden on potential nominees for positions which require appointment by and with the advice and consent of the Senate;
- (II) faster delivery of background information to Congress, the White House, the Federal Bureau of Investigation, Diplomatic Security, and the Office of Government Ethics; and
- (III) fewer errors of omission; and
- (ii) ensure the existence and operation of a single, searchable form which shall be known as a “Smart Form” and shall—
 - (I) be free to a nominee and easy to use;
 - (II) make it possible for the nominee to answer all vetting questions one way, at a single time;
 - (III) secure the information provided by a nominee;
 - (IV) allow for multiple submissions over time, but always in the format requested by the vetting agency or entity;
 - (V) be compatible across different computer platforms;
 - (VI) make it possible to easily add, modify, or subtract vetting questions;
 - (VII) allow error checking; and
 - (VIII) allow the user to track the progress of a nominee in providing the required information.
- (d) REVIEW OF BACKGROUND INVESTIGATION REQUIREMENTS.—
 - (1) IN GENERAL.—The Working Group shall conduct a review of the impact of background investigation requirements on the appointments process.
 - (2) CONDUCT OF REVIEW.—In conducting the review, the Working Group shall—
 - (A) assess the feasibility of using personnel other than Federal Bureau of Investigation personnel, in appropriate circumstances, to conduct background investigations of individuals under consideration for positions appointed by the President, by and with the advice and consent of the Senate; and
 - (B) consider the extent to which the scope of the background investigation conducted for an individual under consideration for a position appointed by the President, by and with the advice and consent of the Senate, should be varied depending on the nature of the position for which the individual is being considered.
 - (3) REPORT.—Not later than 270 days after the date of enactment of this Act, the Working Group shall submit a report of the findings of the review under this subsection to—
 - (A) the President;
 - (B) the Committee on Homeland Security and Governmental Affairs of the Senate; and
 - (C) the Committee on Rules and Administration of the Senate.
- (e) PERSONNEL MATTERS.—
 - (1) COMPENSATION OF MEMBERS.—
 - (A) FEDERAL OFFICERS AND EMPLOYEES.—Each member of the Working Group who is a Federal officer or employee

Assessment.

shall serve without compensation in addition to that received for their services as a Federal officer or employee.

(B) MEMBERS NOT FEDERAL OFFICERS AND EMPLOYEES.—Each member of the Working Group who is not a Federal officer or employee shall not be compensated for services performed for the Working Group.

(2) TRAVEL EXPENSES.—The members of the Working Group shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Working Group.

(3) STAFF.—

(A) IN GENERAL.—The President may designate Federal officers and employees to provide support services for the Working Group.

(B) DETAIL OF FEDERAL EMPLOYEES.—Any Federal employee may be detailed to the Working Group without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) NON-APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Working Group established under this section.

(g) TERMINATION OF THE WORKING GROUP.—The Working Group shall terminate 60 days after the date on which the Working Group submits the latter of the 2 reports under this section.

SEC. 5. REPORT ON PRESIDENTIALLY APPOINTED POSITIONS.

(a) DEFINITIONS.—In this section—

(1) the term “agency” means an Executive agency defined under section 105 of title 5, United States Code; and

(2) the term “covered position” means a position in an agency that requires appointment by the President without the advice and consent of the Senate.

Study.

(b) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Government Accountability Office shall conduct a study and submit a report on covered positions to Congress and the President.

Determination.
Evaluation.
Recommendations.

(c) CONTENTS.—The report submitted under this section shall include—

(1) a determination of the number of covered positions in each agency;

(2) an evaluation of whether maintaining the total number of covered positions is necessary;

(3) an evaluation of the benefits and disadvantages of—

(A) eliminating certain covered positions;

(B) converting certain covered positions to career positions or positions in the Senior Executive Service that are not career reserved positions; and

(C) converting any categories of covered positions to career positions;

(4) the identification of—

(A) covered positions described under paragraph (3)(A) and (B); and

(B) categories of covered positions described under paragraph (3)(C); and

(5) any other recommendations relating to covered positions.

SEC. 6. EFFECTIVE DATE.

(a) **PRESIDENTIAL APPOINTMENTS NOT SUBJECT TO SENATE APPROVAL.**—The amendments made by section 2 shall take effect 60 days after the date of enactment of this Act and apply to appointments made on and after that effective date, including any nomination pending in the Senate on that date. 6 USC 113 note. Applicability.

(b) **DIRECTOR OF THE CENSUS AND WORKING GROUP.**—The provisions of sections 3 and 4 (including any amendments made by those sections) shall take effect on the date of enactment of this Act. 13 USC 21 note.

Approved August 10, 2012.

LEGISLATIVE HISTORY—S. 679:

SENATE REPORTS: No. 112–24 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD:

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