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REPORT
112-24

**PRESIDENTIAL APPOINTMENT EFFICIENCY
AND STREAMLINING ACT OF 2011**

R E P O R T

OF THE

**COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

TO ACCOMPANY

S. 679

TO REDUCE THE NUMBER OF EXECUTIVE POSITIONS SUBJECT TO
SENATE CONFIRMATION



JUNE 21, 2011.—Ordered to be printed

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Mr. LIEBERMAN, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 679]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 679) to reduce the number of executive positions subject to confirmation, reports favorably thereon with an amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

The Presidential Appointment Efficiency and Streamlining Act of 2011 seeks to reduce the burdens and improve the efficiency of the appointment process for executive branch officials. It does so by eliminating the requirement for Senate confirmation for over 200 executive branch positions for which the Committee has determined, based on the work of a leadership-commissioned Senate working group, that such confirmation is unnecessary. The bill also establishes an executive branch working group to study and report on the streamlining of paperwork required for executive nominations and the impact of background investigation requirements on the appointments process.

II. BACKGROUND AND NEED FOR LEGISLATION

In a 2003 report, the bipartisan National Commission on the Public Service, headed by Paul Volcker, observed, “Contemporary presidents face two daunting difficulties in filling the top posts in their administrations: the number of appointments is very large, and the appointments process is very slow.”¹ This is equally if not more true today, and particularly true of the subset of presidential appointments that require Senate confirmation.

According to information compiled by the Congressional Research Service (CRS), the past fifty years has brought a steady growth in the number of presidential appointees who must face Senate confirmation. When President Kennedy entered office, he had 850 Senate-confirmed positions to fill. That number had increased to 1143 by the time President George W. Bush took office, and by the beginning of the Obama Administration, there were 1215 executive branch positions subject to Senate confirmation.²

At the same time—and perhaps not surprisingly in light of the increase in the nominations workload for both the Senate and the executive branch—the time it takes to fill Senate-confirmed positions has been getting longer. Overall, the median time to confirmation, according to data provided by CRS, has increased substantially since the Reagan Administration, jumping in both the Clinton and George W. Bush administrations before leveling off thus far in the Obama Administration.³ That level is unfortunately not an impressive one: only 14 percent of full-time Senate-confirmed positions had been filled at the end of the first 100 days of the Obama Administration,⁴ and, according to one review, even 18 months into the Administration, a quarter of key policy-making positions requiring Senate confirmation remained unfilled.⁵

As one would expect, the length of time to fill positions varies with the level and nature of the position: initial nominees for Cabinet-level positions during a Presidential transition have typically been selected, vetted, considered and confirmed expeditiously while initial nominees to subcabinet positions—Deputy Secretaries, Under Secretaries and certain Assistant Secretaries—have taken significantly longer.⁶ A law review analysis of presidential appoint-

¹ Report of the National Commission on the Public Service. *Urgent Business for America: Revitalizing the Federal Government for the 21st Century*, January 2003, p. 18. Available at <http://www.brookings.edu/gs/cps/volcker/reportfinal.pdf>, last accessed May 3, 2011 [hereinafter “Volcker Report”]. The Commission, first constituted in 1987, is commonly referred to as the “Volcker Commission.”

² Maeve P. Carey and Henry B. Hogue, Congressional Research Service, Memorandum to Senate Committee on Homeland Security and Governmental Affairs, *Number of Executive Branch Advice and Consent Positions at the Outset of Selected Presidential Administrations* (May 6, 2011). CRS based its analysis on positions listed in several editions of United States Government Policy and Support Positions, commonly known as the “Plum Book.”

³ Henry B. Hogue, Maureen Bearden, Betsy Palmer, Congressional Research Service, R40119 *Filling Advice and Consent Positions at the Outset of a New Administration* (2010) [hereinafter, “CRS Report R40119”]; see also Volcker Report, pp. 18–19 (finding that the time to fill political positions “has expanded exponentially in recent decades” and including a graph, based on calculations by the Presidential Appointee Initiative at the Brookings Institution, of the average times to complete an initial appointment from the Kennedy Administration to the George W. Bush administration).

⁴ Henry B. Hogue and Maeve P. Carey, Congressional Research Service, Memorandum to Senate Committee on Homeland Security and Governmental Affairs, *Appointments to Full-time Executive Branch Advice and Consent Positions During the First 100 Days of the Obama Administration* (June 10, 2009).

⁵ William A. Galston and E.J. Dionne, Jr., *A Half-Empty Government Can't Govern: Why Everyone Wants to Fix the Appointments Process, Why it Never Happens, and How We Can Get It Done*, Brookings Institution (December 14, 2010) [hereinafter, “Galston and Dionne”].

⁶ See CRS Report R40119, pp. 11–12.

ments between 1987 and 2005 found that it took presidents an average of only 17 days from the time of a vacancy to nominate a Cabinet Secretary and the Senate an average of only 16 days to confirm the nominee. For lower-level nominees, though, a different picture emerged: it took presidents an average of 95 days to nominate Deputy Cabinet Secretaries and the Senate 62 days to confirm them, while noncabinet agency heads waited an average of 173 days for nomination and 63 additional days for confirmation. Noncabinet agency deputy heads fared even worse, seeing an average of 301 days pass before nomination and 82 additional days before confirmation.⁷

Moreover, as these figures suggest, although Senate delays during the confirmation process (including holds placed on nominees by individual Senators) receive most of the public attention, it is typically the presidential selection and vetting process that consumes the majority of the time from vacancy to appointment. In explaining these delays, observers have noted that the large number of appointments that need to be made at the outset of a new administration can overwhelm the resources available to the executive to review and vet them.⁸ Others have pointed to the ever expanding set of information that administrations seek from nominees—what the Volcker Commission described as “a steady accumulation of inquiries, investigations, and reviews aimed at avoiding political embarrassment.”⁹ Although the length of time required for the Senate to act on nominations has also been increasing,¹⁰ a recent Brookings report pointed out that, in each of the last four administrations, the average time for sending nominations to the Senate was between two and three times as long as the gap between receipt of nominations and confirmation in the Senate. As a result, even if the Senate acted on every nomination within a month, the time needed to fill positions would decline by less than 20 percent.¹¹

The expanding numbers of Senate-confirmed positions to be filled and the delays in filling them have inexorably led to a great increase in vacancies—a situation that cannot help but yield significant consequences for government administration and policy making. The implications have been most stark at the outset of a new administration, when incoming presidents may have to address critical economic or national security challenges with many key pol-

⁷ Anne Joseph O’Connell, *Vacant Offices: Delays in Staffing Top Agency Positions*, 82 S. Cal. L. Rev. 913, 967 (2009) [hereinafter, “O’Connell”].

⁸ See, e.g., Galston and Dionne, p. 8. As the Volcker Report put it (at p. 20), “the presidential appointments process simply cannot keep up with the burden of filling all these positions with properly qualified leaders in a timely way”.

⁹ Volcker Report, p. 18. The report notes that these include “extensive vetting, lengthy interviews, background checks, examinations of government computer records, completion of questionnaires and forms composed of hundreds of questions, FBI full-field investigations, public financial disclosure, and conflicts of interest analysis”—and that much of the process is duplicated when a nomination goes to the Senate. See also Statement of Max Stier (President and CEO, Partnership for Public Service), Hearing before the Senate Committee on Homeland Security and Governmental Affairs, *Eliminating The Bottlenecks: Streamlining The Nominations Process* (March 2, 2011) [hereinafter, “HSGAC March 2011 hearing”], p. 3 (describing an “onerous” vetting process and asserting that “the already-stringent standards of the Obama personnel operation tightened further” after some high-profile appointees ran into difficulties during the Senate confirmation process).

¹⁰ See Statement of Norman J. Ornstein (Resident Scholar, American Enterprise Institute), HSGAC March 2011 hearing (noting that the Senate took an average of 60.8 days to confirm President Obama’s nominees in the administration’s first year, compared to an average of 48.9 days for President Clinton and 57.9 days for President George W. Bush), p. 1.

¹¹ See Galston and Dionne, p. 8.

icy positions unfilled. The 9/11 Commission recognized this in its report, noting that the George W. Bush Administration did not have its national security team, including critical subcabinet officials, confirmed and on the job until at least six months after it took office, and it recommended steps to accelerate the process for national security appointments so as to minimize the disruption of national security policymaking during the change in administrations.¹² A number of commentators have pointed out that President Obama's Secretary of the Treasury had to operate without other senior appointees in the Treasury Department at the height of the financial crisis; strikingly, it took four months to appoint a Deputy Secretary of the Treasury.¹³ And, looking back further, some have noted how difficulties in the wake of Hurricane Hugo, which struck South Carolina in September 1989, nine months into the George H.W. Bush Administration, were exacerbated by the fact that only one of the eight Senate-confirmed positions at the Federal Emergency Management Agency were filled at the time.¹⁴

Problems caused by delays in the appointments process extend beyond the start of an administration, even if that is when they are most noticeable. When the typically short tenure of political appointees¹⁵ is coupled with the delays in nomination and confirmation, the result is frequent, extended vacancies in Senate-confirmed positions throughout the course of an Administration. In fact, according to one analysis, Senate-confirmed positions are empty (or filled by acting officials) on average as much as one-quarter of the time.¹⁶ These widespread vacancies can have a significant, detrimental impact on the ability of a president to carry out his policies, as well as on agencies' ability to determine policy and take action. The absence of accountable political leadership at departments and agencies can also have a detrimental impact on the ability of Congress to oversee agencies.¹⁷

The need for reforms in the federal appointments process is not a new topic. In the past three decades, an abundance of commissions, academics, think tanks, and good government groups have turned their sights on this problem. These include: the National Academy of Public Administration (in 1983¹⁸ and 1985¹⁹); the National Commission on the Public Service (1989²⁰ and 2003²¹); the President's Commission on the Federal Appointments Process

¹² National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, p. 422 (2004).

¹³ See Statement of Max Stier, HSGAC March 2011 hearing, p. 1; see also Galston and Dionne, p. 1; O'Connell, p. 917.

¹⁴ David Lewis, *The Politics of Presidential Appointments Political Control and Bureaucratic Performance*, p. 151 (Princeton, N.J.: Princeton Univ. Press, 2008).

¹⁵ See e.g. Matthew Dull and Patrick S. Roberts, *Continuity, Competence, and the Succession of Senate-Confirmed Agency Appointees, 1989–2009*, 39 Pres. Stud. Q. 432, 436 (2009) (finding a median tenure of 2.5 years for appointees who served under President H. W. Bush or President Clinton); Matthew J. Dickinson and Kathryn Dunn Tenpas, *Explaining Increasing Turnover Rates Among Presidential Advisers, 1929–1997*, 64 J. Pol. 434 (2002).

¹⁶ O'Connell, pp. 962–65.

¹⁷ See O'Connell, pp. 935–52 for a general discussion of some of the implications of vacancies in Senate-confirmed positions.

¹⁸ National Academy of Public Administration, *Revitalizing Federal Management: Managers and Their Overburdened Systems* (1983).

¹⁹ National Academy of Public Administration, *Leadership in Jeopardy: The Fraying of the Presidential Appointments System* (1985).

²⁰ National Commission on Public Service, *Leadership for America: Rebuilding the Public Service* (1989).

²¹ Volcker Report.

(1990)²²; the National Academies of Sciences and Engineering and the Institute of Medicine (1992)²³; the Twentieth Century Fund (1996)²⁴; the Brookings Institution's Presidential Appointee Initiative (co-chaired by former Senator Nancy Kassebaum and former Director of the Office of Management and Budget Franklin Raines) (2001).²⁵ More recently, the Partnership for Public Service has looked closely at these issues,²⁶ as has the Commission to Reform the Federal Appointments Process, a joint effort of the Aspen Institute and Rockefeller Foundation, co-chaired by Clay Johnson, former Assistant to the President for Presidential Personnel, Mack McLarty, former White House Chief of Staff, and former Senators Bill Frist and Chuck Robb. These groups have consistently found that the process for identifying, nominating, and confirming an individual to a Senate-confirmed position has gradually lengthened, become more burdensome, and has discouraged qualified individuals from seeking nominations. Many of the same recommendations have also been repeatedly made, including streamlining the nomination process with respect to financial disclosure and standardized forms and reducing the number of positions requiring Senate confirmation.²⁷

This Committee has sought over the years to reform the appointments process. In April 2001, the Committee (then known as the Senate Committee on Governmental Affairs) held a two-day hearing titled "The State of the Presidential Appointments Process" at which the witnesses raised many of the same issues that continue to be discussed today.²⁸ The previous year, the Committee had reported out the Presidential Transition Act of 2000, which was ultimately enacted into law and required, among other things, that the Office of Government Ethics (OGE) study and report on possible improvements to the financial disclosure process, which was seen as presenting potential barriers to public service.²⁹ A subsequent bill, the Presidential Appointments Improvement Act of 2002,³⁰ sought to implement OGE's recommendations for streamlining the financial disclosure process for presidential appointees and well as other executive branch employees. It also required the Executive Clerk of the White House to transmit a list of all presidentially ap-

²² President's Commission on the Federal Appointment Process, *The Report of the President's Commission on the Federal Appointment Process* (1990).

²³ National Academy of Sciences, National Academy of Engineering, and Institute of Medicine, *Science and Technology Leadership in American Government: Ensuring the Best Presidential Appointments* (1992).

²⁴ The Century Foundation 20th Century Task Force on the Presidential Appointment Process, *Obstacle Course* (1996).

²⁵ The Presidential Appointee Initiative, *To Form a Government: A Bipartisan Plan to Improve the Presidential Appointments Process*, Brookings Institution (April 2001); see generally Alvin S. Felzenberg, *Fixing the Appointments Process: What the Reform Commissions Saw*, Brookings Institution (2001). Available at http://www.brookings.edu/articles/2001/spring1_governance1felzenberg.aspx, accessed May 3, 2011.

²⁶ Partnership for Public Service, *Ready to Govern: Improving the Presidential Transition* (January 2010).

²⁷ The Aspen Institute has compiled a list of past commissions and reports as well as historical summaries of previous commission which have addressed the presidential appointments process. Available at <http://www.aspeninstitute.org/policy-work/commission-appointments/Historical%20Summaries%20of%20Past%20Commissions%20and%20Reports>.

²⁸ Hearing before the Senate Committee on Governmental Affairs, *The State of the Presidential Appointments Process*, S. Hrg. 107-118 (2001).

²⁹ P.L. 106-293 (codified at 3 U.S.C. 102 note). The law also sought to help political appointees quickly get up to speed by encouraging briefings, training and other orientation activities for prospective appointees and providing for a transition directory, to be developed by the Administrator of General Services Administration, with information on the functions, organization and responsibilities of each department and agency.

³⁰ S. 1811, 107th Congress.

pointed positions to all presidential candidates in order to speed the identification and vetting of major presidential nominees, and required that each agency prepare a plan to reduce both the number and layers of Senate-confirmed presidential appointees within the agency. Although the Committee favorably reported the bill, the full Senate never considered it.

The Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA),³¹ reported by this Committee and enacted in response to the recommendations of the 9/11 Commission, included a number of provisions intended to address the Commission's concerns about potential disruptions to national security policy making during presidential transitions and the need to allow new appointees to assume their positions, and get up to speed, as quickly as possible. Among other things, it provided for the expedited processing of security clearances for potential nominees for high-level national security positions; expressed the Sense of the Senate that nominations for national security positions be submitted by Inauguration Day and voted on by the Senate within 30 days thereafter; and required that each agency submit a plan for reducing the number of positions in the agency requiring Senate confirmation.³²

Most recently, the Pre-Election Presidential Transition Act of 2010,³³ was favorably reported by voice vote out of the Committee and enacted into law. It seeks to reduce the delays in the appointment process in the early months of an administration by adopting measures to encourage presidential candidates, as well as outgoing administrations, to begin planning for the transition (including possible nominations) even before Election Day.

S. 679, the Presidential Appointment Efficiency and Streamlining Act, follows and expands on these previous, measured efforts. Although reported from this Committee, it is the product of a Senate-wide process, which resulted from the decision of Majority Leader Reid and Minority Leader McConnell to form a Senate working group, led by Rules Committee Chairman Schumer and Ranking Minority Member Alexander, to examine the appointments process and ways to improve, streamline, and in some cases eliminate confirmations for lower level nominees.³⁴

The Presidential Appointment Efficiency and Streamlining Act of 2011, together with S. Res. 116, reported out of the Committee on Rules and Administration on May 12, 2011, is the result of the Senate working group's study of the appointments process. S. 679's central provisions eliminate the requirement of Senate confirmation for 220 presidentially appointed executive branch positions across the federal government. Most of these positions fall into one of four categories: 1) Legislative and Public Affairs positions; 2) internal management positions such as Chief Financial Officers and

³¹ P.L. 108-458.

³² P.L. 108-458, §§ 7601, 8403, codified at 3 U.S.C. § 102 note and 5 U.S.C. § 1101 note.

³³ P.L. 111-283.

³⁴ 157 Cong. Rec. S15. (January 5, 2011) (statements of Senators Reid and McConnell). The working group also produced S. Res. 116, reported out of the Committee on Rules and Administration on May 12, 2011. S. Res. 116 prescribes expedited procedures for Senate consideration of nominees to part-time, bipartisan boards and commissions. Nominations for these positions are considered "privileged nominations" and are placed in a new section of the Executive Calendar when the nomination is received in the Senate rather than being referred to committee. The nomination remains in this section until ten days after the nominee submits biographical and financial information to the committee of jurisdiction. During this time any Senator may request the nomination be referred to committee. If this does not happen, the nomination is then placed on the Executive Calendar awaiting Senate confirmation.

Chief Information Officers; 3) Directors, Administrators, Commissioners or other positions at or below the Assistant Secretary level that report to a Senate-confirmed Assistant Secretary or other Senate-confirmed position and/or are responsible for a relatively small office; 4) members of part-time boards and commissions that play advisory-only roles. In addition, the bill eliminates Senate confirmation for the appointment and promotion of approximately 6500 Public Health Service commissioned officers and over 300 members of the National Oceanic and Atmospheric Administration Officer Corps.

Eliminating confirmation for such non-policymaking or lower level positions will help reverse the growth in the overall number of Senate-confirmed positions. It will also free up resources within the White House, Federal Bureau of Investigation (FBI), OGE and the Senate that can instead be focused on vetting, clearing, and confirming nominees for higher level positions—and thereby, it is hoped, speed up the appointments process for those nominees.

In the debate over improving the nominations process, some have expressed the view that, by eliminating the confirmation requirement for certain positions, the Senate would be abdicating its constitutional responsibilities for confirmation of nominees and, more generally, for oversight of the executive branch.³⁵ The Committee disagrees. The Constitution's Appointments Clause provides that the President

shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.³⁶

The Constitution thus specifically contemplates that Congress may choose not to require Senate confirmation for “inferior Officers”—described by the Supreme Court as “officers whose work is directed and supervised at some level by others who were appointed by presidential nomination with the advice and consent of the Senate”³⁷—and provides that Congress may decide whether or not to require confirmation “as they think proper.” S. 679, by vesting the appointment of certain inferior officers in the President alone, fits squarely within the dictates of the Appointments Clause. By passing S. 679, the Senate, rather than abdicating its constitutional responsibility for confirmation, would be choosing to exercise it responsibly, reserving this power for senior, policymaking positions.

Nor does the Committee believe that in reducing the number of Senate-confirmed positions in the executive branch the Senate would somehow be foregoing its more general responsibility to oversee executive departments and agencies, or otherwise inappropri-

³⁵ See, e.g., David Addington, *Speed Up Nominations and Confirmations But Do Not Enact S. 679*, Heritage Foundation Web Memo (April 1, 2011). Available at <http://thf.media.s3.amazonaws.com/2011/pdf/wm3211.pdf>; accessed June 10, 2011.

³⁶ U.S. Constitution, art. II, §2, cl. 2.

³⁷ *Edmond v. United States*, 520 U.S. 65, 663 (1997).

ately transferring power from the legislative to the executive branch. The Senate would retain all its considerable oversight tools for ensuring agency accountability—including the ability to hold hearings, subpoena witnesses and documents, require reports from agencies, and request Government Accountability Office audits and investigations. And it would continue to exercise its power to advise and consent on approximately 1000 executive branch positions—among them the positions to which report those 200 or so nominees who would no longer themselves have to be confirmed. The Committee does not expect the reduction in the number of Senate-confirmed appointments to have any adverse impact on Senate committees’ ability to conduct thorough oversight of agencies and departments or conduct investigations when appropriate.³⁸ Indeed, with fewer nominees to consider, Senate committees may well have more time available to focus on other legislative and oversight activities.

In addition to reducing the number of Senate-confirmed positions—an aspect of nominations reform that Congress can effectuate through legislation—S. 679 also includes provisions designed to encourage both the executive and legislative branches to consider ways of streamlining other aspects of the nominations process. Of particular concern are the numerous, duplicative, and time-consuming forms that potential nominees are required to fill out. A study by Terry Sullivan, Executive Director of the White House Transition Project,³⁹ found that nominees “face a range of entities to which they must report and a dazzling array of questions they must answer. Most nominees submit to at least four reviews, each represented by a separate packet of government forms” including a White House Personal Data Statement, a questionnaire from the FBI (SF-86), another package from the Office of Government Ethics (SF-278), and at least one questionnaire from the Senate committee of jurisdiction.⁴⁰ In studying these questionnaires, Sullivan found “about half of the questions that nominees answer involve ‘recurring’ questions (those designated to be redundant and repetitive),” with two-thirds of these questions being redundant (*i.e.*, questions that do not vary the detail required such as a nominee’s social security number) with the rest being repetitive (*i.e.*, similar questions asked differently such as a nominee’s property owner-

³⁸ Some concern has been expressed that, without Senate confirmation, it would be more difficult to get appointees to testify before Congress. It is true that many nominees, in the course of their confirmations, are required by Committees to agree to testify before Congress and to reply to requests for information once confirmed. It is also true, however, that executive branch officials, whether or not confirmed, are expected to respond to reasonable requests of Congress to appear and testify and to provide information. Congress has the ability in most instances to compel witness testimony, and officials in non-Senate-confirmed positions (at least those outside certain sections of the Executive Office of the President) regularly testify before Congress.

³⁹ Established in 1997, the nonpartisan White House Transition Project is a combined effort of scholars, universities, and policy institutions to study and make recommendations for a presidential transition. It provides resources such as institutional memory, perspective on past transitions and research covering aspects of transitions and governing to presidential campaigns, president elect, and new administrations. It also provides analysis on the appointments process and acts as a clearinghouse on other transition resources. Additional information can be found at the Project’s website <http://whitehousetransitionproject.org/>

⁴⁰ Terry Sullivan, *Reducing the Adversarial Burden on Presidential Appointees: Feasible Strategies for Fixing the Presidential Appointments Process*, Public Administration Review, pp. 1126–1127 (November/December 2009) [hereinafter, “Sullivan”]; see also Statement of Max Stier, HSGAC March 2011 hearing, p. 3. (“the vetting process is onerous and requires three lengthy questionnaires and detailed financial and tax information in addition to an FBI background check and additional Senate questionnaires and disclosure requirements on a wide range of issues”).

ship).⁴¹ Several commentators—including Sullivan—have proposed ways of reducing this duplication, including by the use of common, electronic forms.⁴²

The Presidential Appointment Efficiency and Streamlining Act establishes an executive branch working group to study and report to the President and Congress on streamlining paperwork required for those under consideration for Senate-confirmed positions. The bill would require the working group to make recommendations for streamlining paperwork required for executive nominations and a detailed plan for creating and implementing an electronic system for collecting and distributing background information from potential and actual nominees for presidential appointments requiring Senate confirmation. Likened by some to software such as Turbo Tax, such an electronic system, or “smart form,” would allow a nominee to enter answers to the same or similar questions one way and one time and then, ideally, would populate this information into each of the various forms the nominee is asked to fill out during the course of the nomination process. The use of a smart form could reduce the number of redundant questions a nominee must answer and thereby shorten both the time it takes for a president to nominate a candidate and the time it takes for the relevant Senate committee to receive, and review, the nominee’s biographical information.

Finally, S. 679 directs the working group to conduct a review and report on the impact of background investigation requirements on the appointments process. FBI background checks for individuals nominated to a position in the executive branch are not statutorily required but are a matter of presidential practice, with their roots in an executive order issued by President Eisenhower.⁴³ It is now standard practice for nominees to receive a “full-field” background check prior to the nomination being submitted to Congress. Some observers have noted the potentially time consuming nature of FBI background checks, as well as the strain large numbers of these can place on FBI resources, particularly at the start of an administration.⁴⁴ The bill requires the working group to consider the extent to which the scope of the background investigation should be varied depending on the nature of the position for which the individual is being considered. In other words, should a nominee to be, for example, a member of the Postal Rate Commission receive the same level of scrutiny and thoroughness of investigation as a nominee to be the Deputy Secretary of Defense or other high-level na-

⁴¹ See Sullivan, p. 1127.

⁴² Sullivan, pp. 1131–1132; see also Galston and Dionne, p. 14 (suggesting the process can be significantly improved by “instituting uniform forms for all Senate committees of jurisdiction over nominees. . . . better still would be a single form agreed upon between the White House and the Senate”); Statement of the Honorable Clay Johnson III (former Assistant to the President for Presidential Personnel, former Deputy Director for Management, Office of Management and Budget, and Co-Chair, Commission to Reform the Federal Appointments Process), HSGAC March 2011 hearing, pp. 2–3 (advocating use of an electronic application or “smart form”); Statement of Max Stier, HSGAC March 2011 hearing, p. 5 (recommending that Congress order an interagency effort to consolidate background questionnaires into a single, secure electronic form, with each investigating agency given the opportunity to add jurisdiction-specific agenda); Statement of Norman J. Ornstein, HSGAC March 2011 hearing, pp. 3–4 (advocating use of software to enable one-time entry of all basic information and noting the development of a prototype several years ago).

⁴³ Exec. Order No. 10540 (April 27, 1953) (requiring heads of agencies and the Office of Personnel Management, with support from the FBI, to investigate federal employees to determine whether they pose a security risk).

⁴⁴ See, e.g., Statement of Norman J. Ornstein, HSGAC March 2011 hearing, p. 4; Galston and Dionne, p. 4.

tional security position? Norman Ornstein, in testimony submitted to the Committee, recommended, for example, using a sliding scale from full investigations for key posts down to simple computer background checks for more minor posts.⁴⁵ The working group is also to determine whether it would be practical to use personnel other than FBI agents to conduct background investigations of those under consideration for a presidential appointment requiring Senate confirmation, as a means of handling the volume of background checks quickly and reducing the burdens on FBI resources. Currently, the Office of Personnel Management handles background investigations for many individuals other than those being considered for presidentially appointed, Senate-confirmed positions.⁴⁶

III. LEGISLATIVE HISTORY

On March 2, 2011, the Senate Homeland Security and Governmental Affairs Committee held a hearing titled “Eliminating the Bottlenecks: Streamlining the Nominations Process” to examine the problems with and explore potential improvements to the current process by which Executive Branch officials are nominated and confirmed. Clay Johnson, the former head of White House Office of Presidential Personnel and former Deputy Director for Management at the Office of Management and Budget, Max Stier, President of the Partnership for Public Service, and Robert Dove, former Senate Parliamentarian, testified at the hearing. Additionally, Norman Ornstein, resident scholar at the American Enterprise Institute, provided written testimony.

On March 30, 2011, Senators Schumer and Alexander introduced S. 679, which was referred to the Senate Committee on Homeland Security and Governmental Affairs. Senators Lieberman, Collins, Reid, McConnell, Bingaman, Blumenthal, Scott Brown, Carper, Durbin, Johanns, Kyl, Lugar, Reed, and Whitehouse were original co-sponsors of the legislation. The Committee considered the legislation at a business meeting on April 13, 2011. The Committee adopted by unanimous consent a substitute amendment offered by Senators Lieberman and Collins and by voice vote an amendment offered by Senator Carper and then ordered the bill favorably reported by voice vote, with Senator Coburn recorded as a “no” vote (along with Senators Ensign and Paul who asked to be recorded as no votes by proxy). Members present for the vote on the bill were Senators Lieberman, Levin, Akaka, Carper, Landrieu, Begich, Collins, Coburn, McCain, and Johnson.

The substitute amends S. 679 to retain Senate confirmation for the following positions, based on additional, clarifying information about the nature of the positions provided by the Committees with jurisdiction over the nominations: 1) Assistant Secretary for Communication and Information at the Department of Commerce; 2) four Associate Directors at the Office of Science and Technology Policy; and 3) Assistant Secretary for Information and Technology at the Department of Veterans Affairs. In addition, the substitute removes the Chief Human Capital Officer at the Department of

⁴⁵ Statement of Norman J. Ornstein, HSGAC March 2011 hearing, p. 4; *see also* Galston and Dionne, p. 5 (suggesting a “tiered system of background checks, with the most stringent reserved only for top-level positions”).

⁴⁶ *See* Galston and Dionne, p. 13.

Housing and Urban Development from the roster of positions for which Senate confirmation should be eliminated, as that position is not currently required to be Senate confirmed. The substitute also amends S. 679 to eliminate Senate confirmation for the Director of the Office of Selective Service Records at the Department of Defense and the Assistant Secretary for Operations, Security and Preparedness at the Department of Veterans Affairs, and to convert the Chief Financial Officer of the National Aeronautics and Space Administration (NASA) from a political to a career position. Finally, the substitute makes certain other technical and clarifying changes.

The Carper amendment establishes a fixed five-year term for the Director of the Census Bureau, to coincide with each of two distinct phases of the decennial census. Additionally, the amendment requires that future Census Directors have a demonstrated ability in managing large organizations and experience in the collection, analysis, and use of statistical data. It does not alter the existing requirement for Senate confirmation of the Census Director.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section states that this bill may be cited as the “Presidential Appointment Efficiency and Streamlining Act of 2011.”

Sec. 2. Presidential appointments not subject to Senate approval

This section eliminates the requirement of Senate confirmation for 220 presidentially appointed positions across the executive branch, as well as for the appointment and promotion of more than 2800 uniformed officers of the Public Health Service and National Oceanic and Atmospheric Administration.

Subsection (a) removes the requirement for Senate confirmation for the following positions at the Department of Agriculture: (1) Assistant Secretary for Congressional Relations; (2) Assistant Secretary for Administration; (3) Rural Utilities Service Administrator; and (4) the seven members of the Board of Directors of the Commodity Credit Corporation.

Subsection (b) eliminates Senate confirmation for the following positions in the Department of Commerce: (1) Assistant Secretary for Legislative Affairs; and (2) Chief Scientist, National Oceanic and Atmospheric Administration.

Subsection (c) eliminates Senate confirmation for several positions within the Department of Defense: (1) the Assistant Secretary for Legislative Affairs; (2) the Assistant Secretary for Public Affairs; (3) the Assistant Secretary for Networks and Information Integration; (4) the Director of the Office of Selective Service Records; and (5) six members of the National Security Education Board. Additionally this subsection changes the titles of the Assistant Secretaries for Financial Management of the Army, Navy, and Air Force to “Comptroller” of the Army, Navy and Air Force, respectively, and no longer requires that these three positions be Senate confirmed.

Subsection (d) removes the requirement for Senate confirmation for the following positions at the Department of Education: (1) Assistant Secretary for Legislation and Congressional Affairs; (2) As-

sistant Secretary for Management; (3) Commissioner, Rehabilitation Services Administration; and (4) Commissioner for Education Statistics.

Subsection (e) eliminates Senate confirmation for the Assistant Secretary for Congressional and Intergovernmental Affairs at the Department of Energy.

Subsection (f) eliminates Senate confirmation for the following positions at the Department of Health and Human Services: (1) Assistant Secretary for Public Affairs; (2) Assistant Secretary for Legislation; (3) Commissioner, Administration for Children, Youth and Families; and (4) Commissioner, Administration for Native Americans.

Subsection (g) eliminates Senate confirmation for the following positions at the Department of Homeland Security: (1) Assistant Administrator, Grant Programs, Federal Emergency Management Agency;⁴⁷ (2) Administrator of the United States Fire Administration; (3) Director of the Office of Counternarcotics Enforcement; and (4) Chief Medical Officer.

Subsection (h) eliminates the requirement of Senate confirmation for (1) the Assistant Secretary for Congressional and Intergovernmental Relations and (2) the Assistant Secretary for Public Affairs at the Department of Housing and Urban Development.

Subsection (i) eliminates Senate confirmation for several positions in the Department of Justice: (1) Assistant Attorney General, Legislative Affairs; (2) Director of the Bureau of Justice Statistics; (3) Director of the Bureau of Justice Assistance; (4) Director of the National Institute of Justice; (5) Administrator of the Office of Juvenile Justice and Delinquency Prevention; and (6) Director of the Office for Victims of Crime.

Subsection (j) provides that the following positions within the Department of Labor are no longer subject to Senate confirmation: (1) Assistant Secretary for Administration and Management; (2) Assistant Secretary for Congressional Affairs; (3) Assistant Secretary for Public Affairs; and (4) Director of the Women's Bureau.

Subsection (k) eliminates Senate confirmation for three Assistant Secretaries at the Department of State: (1) the Assistant Secretary for Legislative and Intergovernmental Affairs, (2) the Assistant Secretary for Public Affairs, and (3) the Assistant Secretary for Administration.

Subsection (l) provides that the following positions at the Department of Transportation will no longer be subject to Senate confirmation: (1) Assistant Secretary for Budget and Programs; (2) Assistant Secretary for Governmental Affairs; and (3) Deputy Administrator, Federal Aviation Administration.

Subsection (m) makes the following positions within the Department of Treasury no longer subject to confirmation by the Senate: (1) the Assistant Secretary for Legislative Affairs; (2) the Assistant Secretary for Public Affairs; (3) the Assistant Secretary for Management; (4) the Treasurer of the United States; and (5) the Director of the Mint.

Subsection (n) removes the requirement of Senate confirmation for the following Assistant Secretaries in the Department of Vet-

⁴⁷This position was previously known as the Director of the Office for Domestic Preparedness, a title that remains in the Homeland Security Act. See 6 U.S.C. § 238.

erans Affairs: (1) the Assistant Secretary for Management; (2) the Assistant Secretary for Human Resources and Administration; (3) the Assistant Secretary for Public and Intergovernmental Affairs; (4) the Assistant Secretary for Congressional and Legislative Affairs; and (5) the Assistant Secretary for Operations, Security and Preparedness.

Subsection (o) eliminates Senate confirmation for the Alternate Federal Co-Chairman of the Appalachian Regional Commission.

Subsection (p) eliminates Senate confirmation for the two members of the Council of Economic Advisors other than the chairman.

Subsection (q) eliminates Senate confirmation for the two Managing Directors of the Corporation for National and Community Service.

Subsection (r) eliminates Senate confirmation for the 15 members of the National Council on Disability.

Subsection (s) eliminates Senate confirmation for 20 members of the National Museum and Library Services Board.

Subsection (t) eliminates Senate confirmation for the 24 members of the National Science Board.

Subsection (u) eliminates Senate confirmation for the position of Controller, Office of Federal Financial Management at the Office of Management and Budget.

Subsection (v) provides that the four Deputy Directors of the Office of National Drug Control Policy are no longer subject to Senate confirmation.

Subsection (w) eliminates Senate confirmation for the Commissioner of the Office of Navajo and Hopi Relocation.

Subsection (x) eliminates Senate confirmation for (1) the Assistant Administrator for Legislative and Public Affairs and (2) the Assistant Administrator for Management at the U.S. Agency for International Development.

Subsection (y) eliminates Senate confirmation for the Administrator of the Community Development Financial Institution Fund.

Subsection (z) eliminates Senate confirmation for the Administrator of the St. Lawrence Seaway Development Corporation at the Department of Transportation.

Subsection (aa) eliminates Senate confirmation for the seven Commissioners of the Mississippi River Commission.

Subsection (bb) eliminates Senate confirmation for the Governor and Alternate Governor of the African Development Bank.

Subsection (cc) eliminates Senate confirmation for the Governor and Alternate Governor of the Asian Development Bank.

Subsection (dd) eliminates Senate confirmation for the Governor and Alternate Governor of the International Monetary Fund and the International Bank for Reconstruction and Development.

Subsection (ee) eliminates Senate confirmation for the Governor and Alternate Governor of the African Development Fund.

Subsection (ff) removes the requirement of Senate confirmation for the appointment of the 15 members to the National Board for Education Sciences.

Subsection (gg) eliminates Senate confirmation for 10 members of the National Institute for Literacy Advisory Board.

Subsection (hh) eliminates Senate confirmation for 13 members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

Subsection (ii) eliminates Senate confirmation for the Federal Coordinator for Alaska Natural Gas Transportation Projects.

Subsection (jj) provides that appointments to and promotions within the Public Health Service Commissioned Officer Corps are no longer subject to the advice and consent of the Senate. Currently the appointments and permanent promotions of approximately 2536 commissioned officers in the Public Health Service require Senate action.

Subsection (kk) eliminates the need for the advice and consent of the Senate for appointments and promotions of approximately 321 members of the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

Subsection (ll) eliminates the requirement for Senate confirmation for those department or agency Chief Financial Officers (CFOs) who are currently required to be Senate confirmed and instead authorizes the President to appoint those CFOs, with one exception: the CFO at NASA is to be appointed by the head of the agency from the competitive or senior executive service.⁴⁸

Section 3. Appointment of the Director of the Census

This section establishes a five-year fixed term for the Director of the Census Bureau, to coincide with the two phases (planning and operational) of the decennial census. It is designed to ensure consistent leadership of the Census Bureau and is consistent with the fixed terms provided for the heads of other federal statistical agencies.

Subsection (a) amends 13 U.S.C. § 21 to provide that the Census Director is to be appointed for a five-year term and may not serve more than two full terms. It further establishes qualifications for the Census Director, providing that the person appointed is to have demonstrated ability in managing large organizations and experience in the collection, analysis, and use of statistical data. This subsection also provides for removal of the Census Director by the President, and requires that the President notify Congress in writing of the reasons for such removal at least 60 days before removal. The provision does not alter the requirement that the President appoint the Census Director with the advice and consent of the Senate.

Subsection (b) explains the procedures and timing for the transition from the current Census Director to one appointed for a fixed term.

Section 4. Working Group on Streamlining Paperwork for Executive Nominations

This section establishes a Working Group on Streamlining Paperwork for Executive Nominations (“the Working Group”) to look at

⁴⁸ 31 U.S.C. § 901 establishes two categories of CFOs: (1) those who are to be appointed by the President (the seventeen currently specified in statute include those at each of the fifteen Cabinet departments, as well as those at the Environmental Protection Agency and NASA) and (2) those at seven other agencies who are to be appointed by the head of the agency from the competitive service or the senior executive service. S. 697 would eliminate Senate confirmation for the first category of CFOs and would move the NASA CFO to the second category. In addition, 28 U.S.C. § 507 (added by the Consolidated Appropriations of 2000, P.L. 106-113, Div. B, § 1000(a)(1)) provides that, notwithstanding 31 U.S.C. § 901, the Assistant Attorney General for Administration, a career position in the competitive service, shall be the CFO of the Department of Justice.

certain possible ways of reducing burdens and delays in the appointments process.

Subsection (a) establishes the Working Group.

Subsection (b) provides for the composition of the Working Group. Specifically, this subsection designates the Director of the Office of Presidential Personnel as the chairperson of the Working Group, unless the President chooses to designate another federal officer. The Working Group is also to include representatives designated by the President from the Office of Personnel Management, the Office of Government Ethics, and the FBI, as well as individuals appointed by the chairperson of the Working Group who have experience and expertise relating to the Working Group, including individuals from other relevant Federal agencies and individuals with relevant experience from previous presidential administrations.

Subsection (c) directs the Working Group to conduct a study on streamlining the paperwork required for executive nominations, and to submit a report of its findings within 90 days to the President and to the Senate Committees on Homeland Security and Governmental Affairs and Rules and Administration. The report is to include recommendations for streamlining paperwork required for executive nominations and a detailed plan for creating and implementing an electronic system for collecting and distributing background information from potential and actual presidential nominees for presidential appointments requiring Senate confirmation. This electronic system is required, among other things, to provide for faster delivery of background information to Congress, the White House and others and to ensure the existence of a single "Smart Form" that makes it possible for a nominee to answer duplicative vetting questions once. In conducting the study required under this section, the Working Group is to consult with the Chairpersons and Ranking Members of the Senate Committee on Homeland Security and Governmental Affairs and the Senate Committee on Rules and Administration.

Subsection (d) directs the Working Group to review the impact of background investigation requirements on the appointments process. In the review, the Working Group is to assess the feasibility, in appropriate circumstances, of using non-FBI personnel to conduct background investigations of those under consideration for a presidential appointment requiring Senate confirmation. The review is also to consider the extent to which the scope of the background investigations should be varied depending on the nature of the position for which the individual is being considered. After conducting this study and not later than 270 days after the date of enactment of this Act, the Working Group is to submit a report of the findings of the review under this subsection to the President, the Senate Homeland Security and Governmental Affairs Committee, and the Senate Committee on Rules and Administration.

Subsection (e) addresses personnel matters for the Working Group, including providing that no member of the Working Group, whether a federal officer and employee or not, is to be compensated for services performed for the Working Group. This subsection also authorizes the President to designate Federal officers and employees to provide support services for the Working Group and provides

for federal employees to be detailed to the Working Group without reimbursement.

Subsection (f) states that the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Working Group established under this section.

Subsection (g) provides that the Working Group shall terminate 60 days after the date on which it submits the latter of the two reports required under this section.

Section 5. Effective date

This section states that any amendment made by Section 2 of this Act (relating to appointments no longer subject to Senate confirmation) shall take effect 60 days after the date of enactment and apply to appointments made on and after the effective date, including any nomination pending in the Senate on that date. Provisions in Sections 3 and 4 (relating, respectively, to the Census Director and to the Working Group) are to take effect on the date of enactment.

V. REGULATORY IMPACT AND EVALUATION

Pursuant to the requirement of paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and has determined that the bill will have no regulatory impact. CBO states that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MAY 2, 2011.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 679, the Presidential Appointment Efficiency and Streamlining Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 679—Presidential Appointment Efficiency and Streamlining Act of 2011

S. 679 would reduce the number of Presidential appointees that require Senate confirmation and establish a working group to consider ways to streamline the Presidential appointment process. Based on information from federal entities involved in the appointment process, CBO estimates that implementing the bill would have no significant impact on the federal budget. Enacting S. 679 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 679 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The bill would reduce the number of Presidential appointees requiring Senate confirmation from about 1,200 (excluding judges) to around 1,000. The legislation also would eliminate the statutory requirement that the Senate confirm several thousand commissioned officers of the Public Health Service and the National Oceanic and Atmospheric Administration.

CBO expects that enacting the bill could reduce the workloads of certain federal employees; however, because those employees would probably be retained and assigned other tasks, we estimate that implementing the legislation would lead to a negligible reduction in spending subject to appropriation.

The legislation also would establish a working group to examine the process for conducting background investigations of Presidential appointees and study ways to streamline paperwork associated with the appointment process. Because the working group would be staffed by existing government employees and unpaid experts, CBO estimates that implementing this provision would have no significant cost.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 679 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

THE CODE OF LAWS OF THE UNITED STATES OF AMERICA

* * * * *

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

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PART III—EMPLOYEES

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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Subchapter II—Executive Schedule Pay Rates

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§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2 (2 USCS §§351 et seq.), as adjusted by section 5318 of this title (5 USCS § 5318):

- Assistant Secretaries of the Air Force $\zeta(4)$ (3).
- Assistant Secretaries of the Army $\zeta(5)$ (4).
- Assistant Secretaries of the Navy $\zeta(4)$ (3).
- Comptroller of the Air Force*
- Comptroller of the Army*
- Comptroller of the Navy*

* * * * *

APPENDIX I—REORGANIZATION PLANS

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REORGANIZATION PLAN NO. 4 OF 1970

* * * * *

National Oceanic and Atmospheric Administration

* * * * *

§ 2. Establishment of Administration

- (a) * * *
- (b) * * *
- (c) * * *

(d) There shall be in the Administration a Chief Scientist of the National Oceanic and Atmospheric Administration who shall be appointed by the President ζ , by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). The Chief Scientist shall be the principal scientific adviser to the Administrator, and shall perform such other duties as the Administrator may direct. The Chief Scientist shall be an individual who is, by reason of scientific education and experience, knowledgeable in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the Administration.

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TITLE 6—DOMESTIC SECURITY

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CHAPTER 1—HOMELAND SECURITY ORGANIZATION

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Subchapter IV—Directorate of Border and Transportation Security

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PART C—MISCELLANEOUS PROVISIONS

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§ 238. Office for Domestic Preparedness

(a) * * *

(b) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security.

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Subchapter V—National Emergency Management

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§ 321e. Chief Medical Officer

(a) IN GENERAL.—There is in the Department a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

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Subchapter VIII—Coordination With Non-Federal Entities; Inspector General; United States Secret Service; Coast Guard; General Provisions

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PART H—MISCELLANEOUS PROVISIONS

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§ 458. Office of Counternarcotics Enforcement

(a) OFFICE.—There is established in the Department an Office of Counternarcotics Enforcement, which shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate.

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TITLE 7—AGRICULTURE

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CHAPTER 98—DEPARTMENT OF AGRICULTURE REORGANIZATION

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Subchapter I—General Reorganization Authorities

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§ 6918. Assistant Secretaries of Agriculture

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the positions of—

- (1) Assistant Secretary of Agriculture for Congressional Relations;
- (2) Assistant Secretary of Agriculture for Administration; and
- (3) Assistant Secretary of Agriculture for Civil Rights.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes any position of Assistant Secretary authorized under subsection (a)(3), the Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Administration or Assistant Secretary of Agriculture for Congressional Relations on the date of the enactment of this Act (enacted Oct. 13, 1994) and who was appointed as such Assistant Secretary by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (enacted Oct. 13, 1994) (or such later date set by the Secretary if litigation delays rapid succession).

(d) (c) Duties of Assistant Secretary for Agriculture for Civil Rights

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Subchapter III—Rural Economic and Community Development

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§ 6942. Rural Utilities Service

(a) * * *

(b) ADMINISTRATOR.—

(1) APPOINTMENT.—The Rural Utilities Service shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) SUCCESSION.—Any official who is serving as Administrator of the Rural Electrification Administration on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(A) may be considered to be serving in the successor position established under paragraph (1); and

(B) shall not be required to be reappointed to that position by reason of the enactment of this Act.

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TITLE 10—ARMED FORCES

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Subtitle A—General Military Law

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PART 1—ORGANIZATION AND GENERAL MILITARY POWERS

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CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE

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§ 138. Assistant Secretaries of Defense

(a)(1) There are 16 Assistant Secretaries of Defense.

¿(2) The Assistant Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(2)(A) *Except as provided in subparagraph (B), the Assistant Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.*

(B) *The Assistant Secretary of Defense referred to in subsection (b)(5), the Assistant Secretary of Defense for Public Affairs, and the Assistant Secretary for Defense in Networks and Information Integration shall each be appointed from civilian life by the President.*

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Subtitle B—The Army

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PART I—ORGANIZATION

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CHAPTER 303—DEPARTMENT OF THE ARMY

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¿§ 3016. Assistant Secretaries of the Army § 3016. Assistant Secretaries of the Army; Comptroller of the Army

(a) There are ¿five *four* Assistant Secretaries of the Army. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Army.

(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Civil Works. He shall have as his principal duty the overall supervision of the functions of the Department of the Army relating to programs for conservation and development of

the national water resources, including flood control, navigation, shore protection, and related purposes.

ε(4) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Army, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Army and shall advise the Secretary of the Army on financial management.

ε(5) (4)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Acquisition, Technology, and Logistics. The principal duty of the Assistant Secretary shall be the overall supervision of acquisition, technology, and logistics matters of the Department of the Army.

(B) The Assistant Secretary shall have a Principal Military Deputy, who shall be a lieutenant general of the Army on active duty. The Principal Military Deputy shall be appointed from among officers who have significant experience in the areas of acquisition and program management. The position of Principal Military Deputy shall be designated as a critical acquisition position under section 1733 of this title (10 USCS § 1733).

(C) *There is a Comptroller of the Army, who shall be appointed from civilian life by the President. The Comptroller shall perform such duties and exercise such powers as the Secretary of the Army may prescribe. The Comptroller shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Army, including financial management functions. The Comptroller shall be responsible for all financial management activities and operations of the Department of the Army and shall advise the Secretary of the Army on financial management.*

* * * * *

§ 3022. Financial management

(a) The Secretary of the Army shall provide that the εAssistant Secretary of the Army for Financial Management *Comptroller of the Army* shall direct and manage financial management activities and operations of the Department of the Army, including ensuring that financial management systems of the Department of the Army comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

(1) supervise and direct the preparation of budget estimates of the Department of the Army and otherwise carry out, with respect to the Department of the Army, the functions specified for the Under Secretary of Defense (Comptroller) in section 135(c) of this title (10 USCS § 135(c));

(2) approve and supervise any project to design or enhance a financial management system for the Department of the Army; and

(3) approve the establishment and supervise the operation of any asset management system of the Department of the Army, including—

(A) systems for cash management, credit management, and debt collection; and

(B) systems for the accounting for the quantity, location, and cost of property and inventory.

(b) * * *

(c) * * *

(d) The Assistant Secretary of the Army for Financial Management *Comptroller of the Army* shall transmit to the Secretary of the Army a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Army financial management.

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Subtitle C—Navy and Marine Corps

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PART I—ORGANIZATION

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CHAPTER 503—DEPARTMENT OF THE NAVY

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§5016. Assistant Secretaries of the Navy §5016. Assistant Secretaries of the Navy; Comptroller of the Navy

(a) There are four *three* Assistant Secretaries of the Navy. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe.

(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Navy.

(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Navy, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Navy and shall advise the Secretary of the Navy on financial management.

(4) (3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Research, Development, and Acquisition. The principal duty of the Assistant Secretary shall be the overall supervision of research, development, and acquisition matters of the Department of the Navy.

(B) The Assistant Secretary shall have a Principal Military Deputy, who shall be a vice admiral of the Navy or a lieutenant general of the Marine Corps on active duty. The Principal Military Deputy shall be appointed from among officers who have significant experience in the areas of acquisition and program management. The position of Principal Military Deputy shall be designated

as a critical acquisition position under section 1733 of this title (10 USCS §1733).

(c) *There is a Comptroller of the Navy, who shall be appointed from civilian life by the President. The Comptroller shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe. The Comptroller shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Navy, including financial management functions. The Comptroller shall be responsible for all financial management activities and operations of the Department of the Navy and shall advise the Secretary of the Navy on financial management.*

* * * * *

§ 5025. Financial management

(a) The Secretary of the Navy shall provide that the ϵ Assistant Secretary of the Navy for Financial Management *Comptroller of the Navy* shall direct and manage financial management activities and operations of the Department of the Navy, including ensuring that financial management systems of the Department of the Navy comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

(1) supervise and direct the preparation of budget estimates of the Department of the Navy and otherwise carry out, with respect to the Department of the Navy, the functions specified for the Under Secretary of Defense (Comptroller) in section 135(c) of this title;

(2) approve and supervise any project to design or enhance a financial management system for the Department of the Navy; and

(3) approve the establishment and supervise the operation of any asset management system of the Department of the Navy, including—

(A) systems for cash management, credit management, and debt collection; and

(B) systems for the accounting for the quantity, location, and cost of property and inventory.

(b) * * *

(c) * * *

(d) The ϵ Assistant Secretary of the Navy for Financial Management *Comptroller of the Navy* shall transmit to the Secretary of the Navy a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Navy financial management.

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Subtitle D—Air Force

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PART I—ORGANIZATION

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CHAPTER 803—DEPARTMENT OF THE AIR FORCE

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§ 8016. Assistant Secretaries of the Air Force; *Comptroller of the Air Force*

(a) There are ~~ε~~four *three* Assistant Secretaries of the Air Force. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Air Force.

~~ε~~(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Air Force, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Air Force and shall advise the Secretary of the Air Force on financial management.

~~ε~~(4) (3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Acquisition. The principal duty of the Assistant Secretary shall be the overall supervision of acquisition matters of the Department of the Air Force.

(B) The Assistant Secretary shall have a Principal Military Deputy, who shall be a lieutenant general of the Air Force on active duty. The Principal Military Deputy shall be appointed from among officers who have significant experience in the areas of acquisition and program management. The position of Principal Military Deputy shall be designated as a critical acquisition position under section 1733 of this title (10 USCS § 1733).

(c) *There is a Comptroller of the Air Force, who shall be appointed from civilian life by the President. The Comptroller shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe. The Comptroller shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Air Force, including financial management functions. The Comptroller shall be responsible for all financial management activities and operations of the Department of the Air Force and shall advise the Secretary of the Air Force on financial management.*

* * * * *

§ 8022. Financial management

(a) The Secretary of the Air Force shall provide that the ~~ε~~Assistant Secretary of the Air Force for Financial Management *Comptroller of the Air Force* shall direct and manage financial management activities and operations of the Department of the Air Force,

including ensuring that financial management systems of the Department of the Air Force comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

(1) supervise and direct the preparation of budget estimates of the Department of the Air Force and otherwise carry out, with respect to the Department of the Air Force, the functions specified for the Under Secretary of Defense (Comptroller) in section 135(c) of this title (10 USCS § 135(c));

(2) approve and supervise any project to design or enhance a financial management system for the Department of the Air Force; and

(3) approve the establishment and supervise the operation of any asset management system of the Department of the Air Force, including—

(A) systems for cash management, credit management, and debt collection; and

(B) systems for the accounting for the quantity, location, and cost of property and inventory.

(b) * * *

(c) * * *

(d) The Assistant Secretary of the Air Force for Financial Management *Comptroller of the Air Force* shall transmit to the Secretary of the Air Force a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Air Force financial management.

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TITLE 12—BANKS AND BANKING

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CHAPTER 47—COMMUNITY DEVELOPMENT BANKING

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Subchapter I—Community Development Banking and Financial Institutions

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§ 4703. Establishment of national Fund for community development banking

(a) * * *

(b) MANAGEMENT OF FUND.—

(1) APPOINTMENT OF ADMINISTRATOR.—The management of the Fund shall be vested in an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall not engage in any other business or employment during service as the Administrator.

(2) * * *

(3) * * *

(4) * * *

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TITLE 13—CENSUS

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CHAPTER I—ADMINISTRATION

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Subchapter II—Officers and Employees

* * * * *

§21. Director of the Census; duties

¿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. The Director shall perform such duties as may be imposed upon him by law, regulations, or orders of the Secretary.

(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 a 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.

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

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TITLE 15—COMMERCE AND TRADE

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CHAPTER 15—ECONOMIC RECOVERY

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Subchapter II—Commodity Credit Corporation

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§ 714g. Board of Directors

(a) Composition; appointment, tenure and compensation; quorum; duties. The management of the Corporation shall be vested in a board of directors (hereinafter referred to as the "Board"), subject to the general supervision and direction of the Secretary. The Secretary shall be an ex officio director and shall serve as Chairman of the Board. The Board shall consist of seven members (in addition to the Secretary), who shall be appointed by the President ζ by and with the advice and consent of the Senate . In addition to their duties as members of the Board, such appointed members shall perform such other duties as may be prescribed by the Secretary. Each appointed member of the Board shall receive compensation at such rate not in excess of the maximum then payable under the Classification Act of 1923, as amended, as may be fixed by the Secretary, except that any such member who holds another office or position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this section. A majority of the directors shall constitute a quorum of the Board and action shall be taken only by a majority vote of those present.

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CHAPTER 15D—ALASKA NATURAL GAS PIPELINE

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§ 720d. Federal Coordinator

(a) * * *

(b) FEDERAL COORDINATOR.—

(1) APPOINTMENT.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall be appointed by the President ζ , by and with the advice and consent of the Senate, to serve a term to last until 1 year following the completion of the project referred to in section 103 (15 USCS § 720a).

(2) * * *

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CHAPTER 21—NATIONAL POLICY ON EMPLOYMENT AND PRODUCTIVITY

* * * * *

§ 1023. Council of Economic Advisors

ζ (a) Creation; composition; qualifications; selection of chairman and vice chairman. There is hereby created in the Executive Office of the President a Council of Economic Advisors (hereinafter called

the "Council"). The Council shall be composed of three members who shall be appointed by the President, by with the advice and consent of the Senate, and each of whom shall be a person who, as a result of [his] 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 [15 USCS §1021], and to formulate and recommend national economic policy to promote full employment, production, and purchasing power under free competitive enterprise. [Each member of the Council shall receive compensation at the rate of \$ 15,000 per annum.] The President shall designate one of the members of the Council as chairman and one as vice chairman, who shall act as chairman in the absence of the chairman.

(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 his 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.

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CHAPTER 49—FIRE PREVENTION AND CONTROL

* * * * *

§ 2204. United States Fire Administration

(a) * * *

(b) ADMINISTRATOR.—There shall be at the head of the Administration the Administrator of the United States Fire Administration. The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for level IV of the Executive Schedule pay rates (5 U.S.C. 5315). The Administrator shall report and be responsible to the Director.

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TITLE 20—EDUCATION

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CHAPTER 48—DEPARTMENT OF EDUCATION

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Subchapter II—Establishment of the Department

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§ 3412. Principal Officers

(e) ADDITIONAL OFFICERS. There shall be in the Department four additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. *Notwithstanding the previous sentence, the appointments of individuals to serve as the Assistant Secretary for Legislation and Congressional Affairs and the Assistant Secretary for Management shall not be subject to the advice and consent of the Senate.* The officers appointed under this subsection shall perform such functions as the Secretary shall prescribe, including—

- (1) congressional relations functions;
- (2) public information functions, including the provision, through the use of the latest technologies, of useful information about education and related opportunities to students, parents, and communities;
- (3) functions related to monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs;
- (4) management and budget functions;
- (5) planning, evaluation, and policy development functions, including development of policies to promote the efficient and coordinated administration of the Department and its programs and to encourage improvements in education; and
- (6) functions related to encouraging and promoting the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

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CHAPTER 56—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT

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Subchapter I—American Indians and Alaska Natives

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§ 4412. Board of Trustees

(a) COMPOSITION.—(1) The Board of Trustees of the Institute shall be composed of 13 voting members and 6 nonvoting members as follows:

- (A) Subject to the provisions of subsection (i), the voting members shall be appointed by the President of the United

States; by and with the advice and consent of the Senate , not later than 180 days after the date of enactment of this Act (enacted Oct. 17, 1986), from among individuals from private life who are Indians, or other individuals, widely recognized in the field of Indian art and culture and who represent diverse political views, and diverse fields of expertise, including finance, law, fine arts, and higher education administration.

- (B) * * *
- (2) * * *
- (3) * * *
- (4) * * *

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CHAPTER 72—MUSEUM AND LIBRARY SERVICES

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Subchapter I—General Provisions

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§9105a. National Museum and Library Services Board

(a) * * *

(b) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT. The Museum and Library Services Board shall be composed of the following:

(A) The Director.

(B) The Deputy Director for the Office of Library Services.

(C) The Deputy Director for the Office of Museum Services.

(D) Ten members appointed by the President, by and with the advice and consent of the Senate , from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of library services, or their commitment to libraries.

(E) Ten members appointed by the President, by and with the advice and consent of the Senate , from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of museum services, or their commitment to museums.

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- (3) * * *
- (4) * * *

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CHAPTER 73—ADULT EDUCATION AND LITERACY

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Subchapter I—Adult Education and Family Literacy

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PART A—ADULT EDUCATION AND LITERACY PROGRAMS

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Subpart 4—General Provisions

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§ 9252. National Institute for Literacy

- (a) * * *
- (b) * * *
- (c) * * *
- (d) * * *

(e) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There shall be a National Institute for Literacy Advisory Board (in this section referred to as the “Board”), which shall consist of 10 individuals appointed by the President, with the advice and consent of the Senate .

(B) COMPOSITION.—The Board shall be comprised of individuals who are not otherwise officers or employees of the Federal Government and who are representative of entities such as—

- (i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English literacy programs and services, social service organizations, and eligible providers receiving assistance under this subtitle (20 USCS §§ 9211 et seq.);
- (ii) businesses that have demonstrated interest in literacy programs;
- (iii) literacy students, including literacy students with disabilities;
- (iv) experts in the area of literacy research;
- (v) State and local governments;
- (vi) State Directors of adult education; and
- (vii) representatives of employees, including representatives of labor organizations.

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- (6) * * *
- (7) * * *

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CHAPTER 76—EDUCATION RESEARCH, STATISTICS, EVALUATION, INFORMATION, AND DISSEMINATION

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Subchapter I—Education Sciences Reform

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PART A—THE INSTITUTE OF EDUCATION SCIENCES

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§ 9516. National Board for Education Sciences

(a) * * *

(b) * * *

(c) COMPOSITION.—

(1) VOTING MEMBERS.—The Board shall have 15 voting members appointed by the President_ε, by and with the advice and consent of the Senate .

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(10) * * *

§ 9517. Commissioners of the National Education Centers

(a) * * *

(b) APPOINTMENT OF COMMISSIONER FOR EDUCATION STATISTICS.—The National Center for Education Statistics shall be headed by a Commissioner for Education Statistics who shall be appointed by the President_ε, by and with the advice and consent of the Senate, and who shall—

(1) have substantial knowledge of programs assisted by the National Center for Education Statistics;

(2) receive the rate of basic pay for level IV of the Executive Schedule; and

(3) serve for a term of 6 years, with the term to expire every sixth June 21, beginning in 2003.

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TITLE 21

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TITLE 21—FOOD AND DRUGS

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CHAPTER 22—NATIONAL DRUG CONTROL POLICY

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§ 1703. Appointment and duties of Director and Deputy Directors

(a) APPOINTMENT.—

_ε(1) IN GENERAL.—The Director, the Deputy Director of National Drug Control Policy, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Deputy Director for State and Local Affairs, shall each be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. 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.

(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 State and Local 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.*

(2) * * *

(3) * * *

(4) * * *

(5) * * *

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TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

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CHAPTER 7—INTERNATIONAL BUREAUS, CONGRESSES, ETC.

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Subchapter XIV—Asian Development Bank

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§285a. Appointment of Governor, Alternate Governor and Director; compensation

(a) The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank, an alternate for the Governor, and a Director of the Bank. *shall appoint—*

(1) *a Governor of the Bank and an alternate for the Governor; and*

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

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SUBCHAPTER XV—INTERNATIONAL MONETARY FUND AND BANK FOR RECONSTRUCTION AND DEVELOPMENT

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§ 286a. Appointments

(a) Governors and executive directors; term of office. The President, by and with the advice and consent of the Senate, shall appoint a governor of the Fund who shall also serve as a governor of the Bank, and an executive director of the Fund and an executive director *shall appoint a governor of the Fund who shall also serve as governor of the Bank and, by and with the advice and consent of the Senate, an executive director of the Bank.* The executive directors so appointed shall also serve as provisional executive directors of the Fund and the Bank for the purposes of the respective Articles of Agreement. The term of office for the governor of the Fund and of the Bank shall be five years. The term of office for the executive directors shall be two years, but the executive directors shall remain in office until their successors have been appointed.

(b) Alternates; term of office. The President, by and with the advice and consent of the Senate, shall appoint an alternate for the governor of the Fund and an alternate for the governor of the Bank. The President, by and with the advice and consent of the Senate, shall appoint an alternate for each of the executive directors. The alternate for each executive director shall be appointed from among individuals recommended to the President by the executive director. The terms of office for alternates for the governor and the executive directors shall be the same as the terms specified in subsection (a) for the governor and executive directors.

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SUBCHAPTER XXII—AFRICAN DEVELOPMENT FUND

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§ 290g-1. Appointment of Governor and Alternate Governor; rank, duties, and compensation

(a) The President, by and with the advice and consent of the Senate, shall appoint a Governor, and an Alternate Governor, of the Fund.

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SUBCHAPTER XXIV—AFRICAN DEVELOPMENT BANK

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§ 290i-1. Governor, Alternate Governor and Director

(a) APPOINTMENT; TERM; TERMINATION AND REAPPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint a Governor, an Alternate Governor, and a Director of the Bank *shall appoint a Governor and an Alternate Governor.* The term of office for the Governor and the Alternate Governor shall be five years, subject at any time to termination of appointment or to reappointment. The Governor and Alternate Governor shall remain in office until a successor has been appointed.

§ 290i-2. Director or Alternate Director; allowances

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

(b) The Director or Alternate Director representing the United States, if citizens of the United States, may, in the discretion of the President, receive such compensation, allowances, and other benefits as, together with those received from the Bank and from the African Development Fund, may not exceed those authorized for a chief of mission under the Foreign Service Act of 1980.

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CHAPTER 38—DEPARTMENT OF STATE

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§ 2651a. Organization of the Department of State

(a) * * *

(b) * * *

(c) ASSISTANT SECRETARIES.—

(1) IN GENERAL.—There shall be in the Department of State not more than 24 Assistant Secretaries of State, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5. *Each Assistant Secretary of State shall be appointed by the President, by and with the advice of the Senate, except that the appointments of the Assistant Secretary for Legislative and Intergovernmental Affairs, the Assistant Secretary for Public Affairs, and the Assistant Secretary for Administration shall not be subject to the advice and consent of the Senate.*

(2) * * *

(3) * * *

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TITLE 25—INDIANS

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CHAPTER 14—MISCELLANEOUS

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Subchapter XXII—Navajo and Hopi Tribes: Settlement of Rights and Interest

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§ 640d-11. Office of Navajo and Hopi Indian Relocation

(a) ESTABLISHMENT; COMMISSIONER.—There is hereby established as an independent entity in the executive branch the Office of Navajo and Hopi Indian Relocation which shall be under the direction of the Commissioner on Navajo and Hopi Relocation (hereinafter in this Act (–640d-31) referred to as the “Commissioner”).

(b) APPOINTMENT; TERM OF OFFICE; COMPENSATION.—

(1) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate .

(2) * * *

(3) * * *

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TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

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CHAPTER 31—THE ATTORNEY GENERAL

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§ 506. Assistant Attorneys General

The President shall appoint, by and with the advice and consent of the Senate, 11 Assistant Attorneys General 10 Assistant Attorneys General, who shall assist the Attorney General in the performance of his duties.

§ 507. * * *

§ 507A. * * *

§ 507B. Assistant Attorney General for Legislative Affairs

The President shall appoint an Assistant Attorney General for Legislative Affairs to assist the Attorney General in the performance of duties of the Attorney General.

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TITLE 29—LABOR

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CHAPTER 2—WOMEN'S BUREAU

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§ 12. Director of bureau; appointment

The Women's Bureau shall be in charge of a director, a woman, to be appointed by the President, by and with the advice and consent of the Senate, who shall receive an annual compensation.

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CHAPTER 16—VOCATIONAL REHABILITATION AND OTHER REHABILITATION SERVICES GENERAL PROVISIONS

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§ 702. Rehabilitation Service Administration

(a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the "Commissioner")

appointed by the President by and with the advice and consent of the Senate . Except for titles IV and V (29 USCS §§ 780 et seq., 791 et seq.) and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of the functions of the office under this Act, the Commissioner shall be guided by general policies of the National Council on Disability established under title IV of this Act (29 USCS §§ 780 et seq.).

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Subchapter IV—National Council on Disability

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§ 780. Establishment of National Council on Disability

(a) MEMBERSHIP; PURPOSE.—

(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this title (29 USCS 780 et seq.) referred to as the “National Council”), which shall be composed of fifteen members appointed by the President by and with the advice and consent of the Senate .

(B) * * *

(C) * * *

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TITLE 31—MONEY AND FINANCE

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Subtitle I—General

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CHAPTER 3—DEPARTMENT OF TREASURY

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Subchapter I—Organization

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§ 301. Department of the Treasury

(a) * * *

(b) * * *

(c) * * *

(d) The Department has 2 Under Secretaries, an Under Secretary for Enforcement, 2 Deputy Under Secretaries, and a Treasurer of the United States and 2 Deputy Under Secretaries, appointed by the President, by and with the advice and consent of the Senate. The Department also has a Fiscal Assistant Secretary appointed by the Secretary and a Treasurer of the United States appointed by the President. They shall carry out duties and powers prescribed by the Secretary. The President may designate one Under Secretary as Counselor. When appointing each Deputy Under Secretary, the President may designate the Deputy Under Secretary as an Assistant Secretary.

(e) The Department has 10 7 Assistant Secretaries appointed by the President, by and with the advice and consent of the Senate. The Department shall have 3 Assistant Secretaries not subject to the advice and consent of the Senate who shall be the Assistant Secretary for Legislative Affairs, Assistant Secretary for Public Affairs, and the Assistant Secretary for Management, Chief Financial Officer, and Chief Performance Officer. The Assistant Secretaries shall carry out duties and powers prescribed by the Secretary. The Assistant Secretaries appointed under this subsection are in addition to the Assistant Secretaries appointed under subsection (d) of this section.

* * * * *

§ 304. United States Mint

(a) * * *

(b)(1) The head of the Mint is the Director of the Mint. The Director is appointed by the President, by and with the advice and consent of the Senate. The term of the Director is 5 years. The President may remove the Director from office. On removal, the President shall send a message to the Senate giving the reasons for removal.

(2) The Director shall carry out duties and powers prescribed by the Secretary of the Treasury.

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CHAPTER 5—OFFICE OF MANAGEMENT AND BUDGET

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Subchapter I—Organization

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§ 504. Office of Federal Financial Management

(a) There is established in the Office of Management and Budget an office to be known as the “Office of Federal Financial Management”. The Office of Federal Financial Management, under the direction and control of the Deputy Director for Management of the Office of Management and Budget, shall carry out the financial management functions listed in section 503(a) of this title (31 USCS § 503(a)).

(b) There shall be at the head of the Office of Federal Financial Management a Controller, who shall be appointed by the

President, by and with the advice and consent of the Senate. The Controller shall be appointed from among individuals who possess—

- (1) * * *
- (2) * * *

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CHAPTER 9—AGENCY CHIEF FINANCIAL OFFICERS

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§ 901. Establishment of agency Chief Financial Officers

(a) There shall be within each agency described in subsection (b) an agency Chief Financial Officer. Each agency Chief Financial Officer shall—

- (1) for those agencies described in subsection (b)(1)—
 - ⊃ (A) be appointed by the President, by and with the advice and consent of the Senate; or
 - ⊃ (B) be designated by the President, in consultation with the head of the agency, from among officials of the agency who are required by law to be so appointed;
 - (A) be appointed by the President; or*
 - (B) be designated by the President, in consultation with the head of the agency, from among officials of the agency who are required by law to be appointed by the President, whether or not by and with the advice and consent of the Senate;*

- (2) * * *
- (3) * * *

(b)(1) The agencies referred to in subsection (a)(1) are the following:

- (A) The Department of Agriculture.
- (B) The Department of Commerce.
- (C) The Department of Defense.
- (D) The Department of Education.
- (E) The Department of Energy.
- (F) The Department of Health and Human Services.
- (G) The Department of Homeland Security.
- (H) The Department of Housing and Urban Development.
- (I) The Department of the Interior.
- (J) The Department of Justice.
- (K) The Department of Labor.
- (L) The Department of State.
- (M) The Department of Transportation.
- (N) The Department of the Treasury.
- (O) The Department of Veterans Affairs.
- (P) The Environmental Protection Agency.
- ⊃ (Q) The National Aeronautics and Space Administration.

(2) The agencies referred to in subsection (a)(2) are the following:

- (A) The Agency for International Development.
- (B) The General Services Administration.
- (C) The National Science Foundation.
- (D) The Nuclear Regulatory Commission.
- (E) The Office of Personnel Management.
- (F) The Small Business Administration.

- (G) The Social Security Administration.
- (H) *The National Aeronautics and Space Administration.*

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TITLE 33—NAVIGATION AND NAVIGABLE WATERS

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CHAPTER 13—MISSISSIPPI RIVER COMMISSION

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§ 642. Appointment of commissioners; vacancies; chairman; tenure of office

The President of the United States shall, by and with the advice and consent of the Senate, appoint seven commissioners, three of whom shall be selected from the Engineer Corps of the Army, one from the Coast and Geodetic Survey, and three from civil life, two of whom shall be civil engineers. And any vacancy which may occur in the commission shall in like manner be filled by the President of the United States; and he shall designate one of the commissioners appointed from the Engineer Corps of the Army to be president of the commission. The commissioners appointed under this Act, except those appointed from civil life, shall remain in office subject to removal by the President of the United States. Each commissioner appointed from civil life after the date of enactment of this sentence shall be appointed for a term of nine years.

* * * * *

CHAPTER 19—SAINT LAWRENCE SEAWAY

* * * * *

§ 982. Management of Corporation; appointment of Administrator; terms; vacancy; Advisory Board; establishment; membership; meetings; duties; compensation and expenses

(a) The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of seven years. Any Administrator appointed to fill a vacancy in that position prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

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CHAPTER 43—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS

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Subchapter II—Appointment and Promotion of Officers

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§ 3026. Appointments and promotions to permanent grades

Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate .

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§ 3028. Positions of importance and responsibility

- (a) * * *
- (b) * * *
- (c) * * *
- (d) Grade.

(1) Temporary appointment to grade designated for position. An officer assigned to a position under this section while so serving has the grade designated for that position, if appointed to that grade by the President, by and with the advice and consent of the Senate .

- (2) * * *

* * * * *

§ 3029. Temporary appointments and promotions generally

(a) Ensign. Temporary appointments in the grade of ensign may be made by the President alone . Each such temporary appointment terminates at the close of the next regular session of the Congress unless the Senate sooner gives its advice and consent to the appointment .

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TITLE 38—VETERANS' BENEFITS

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PART I—GENERAL PROVISIONS

* * * * *

CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS

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§ 308. Assistant Secretaries; Deputy Assistant Secretaries

(a) There shall (1) *There shall* be in the Department not more than seven Assistant Secretaries. Each Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(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 Congressional and Legislative Affairs

(E) The Assistant Secretary for Operations, Security and Preparedness.

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**TITLE 40—PUBLIC BUILDINGS,
PROPERTY, AND WORKS**

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**Subtitle IV—Appalachian Regional
Development**

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CHAPTER 143—APPALACHIAN REGIONAL COMMISSION

* * * * *

Subchapter I—Organization and Administration

* * * * *

§ 14301. Establishment, membership, and employees

(a) * * *

(b) MEMBERSHIP.—

(1) FEDERAL AND STATE MEMBERS.—The Commission is composed of the Federal Cochairman, appointed by the President by and with the advice and consent of the Senate, and the Governor of each participating State in the Appalachian region.

(2) * * *

(3) * * *

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**TITLE 42—THE PUBLIC HEALTH AND
WELFARE**

* * * * *

CHAPTER 6A—PUBLIC HEALTH SERVICE

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Subchapter I—Administration and Miscellaneous Provisions

* * * * *

PART A—ADMINISTRATION

* * * * *

§ 204. Commissioned Corps and Ready Reserve Corps

(a) ESTABLISHMENT.—

(1) * * *

(2) * * *

(3) APPOINTMENT.—Commissioned officers of the Ready Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by the President ζ with the advice and consent of the Senate .

(4) * * *

(5) * * *

* * * * *

§ 211. Promotion of commissioned officers

(a) PERMANENT OR TEMPORARY PROMOTIONS; EXAMINATION.—Promotions of officers of the Regular Corps to any grade up to and including the director grade shall be either permanent promotions based on length of service, other permanent promotions to fill vacancies, or temporary promotions. Permanent promotions shall be made by the President ζ , by and with the advice and consent of the Senate ζ , and temporary promotions shall be made by the President. Each permanent promotion shall be to the next higher grade, and shall be made only after examination given in accordance with regulations of the President.

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CHAPTER 16—NATIONAL SCIENCE FOUNDATION

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§ 1863. National Science Board

(a) COMPOSITION; APPOINTMENT; ESTABLISHMENT OF POLICIES OF THE FOUNDATION.—The Board shall consist of twenty-four members to be appointed by the President ζ , by and with the advice and consent of the Senate , and of the Director ex officio. In addition to any powers and functions otherwise granted to it by this Act, the Board shall establish the policies of the Foundation, within the framework of applicable national policies as set forth by the President and the Congress.

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CHAPTER 34—ECONOMIC OPPORTUNITY PROGRAM

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Subchapter VIII—Native American Programs

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§ 2991b-2. Establishment of Administration for Native Americans

(a) * * *

(b) COMMISSIONER.—The Commissioner shall be appointed by the President ζ , by and with the advice and consent of the Senate .

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CHAPTER 44—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

* * * * *

§ 3533. Officers of Department

(a)(1) DEPUTY SECRETARY, ASSISTANT SECRETARIES, AND GENERAL COUNSEL.—There shall be in the Department a Deputy Secretary, eight Assistant Secretaries, and a General Counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(2) *There shall be in the Department an Assistant Secretary for Congressional and Intergovernmental Relations, and an Assistant Secretary for Public Affairs, each of whom shall be appointed by the President and shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.*

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CHAPTER 46—JUSTICE SYSTEM IMPROVEMENT

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Subchapter III—Bureau of Justice Statistics

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§ 3732. Bureau of Justice Statistics

(a) * * *

(b) APPOINTMENT OF DIRECTOR; EXPERIENCE; AUTHORITY; RESTRICTIONS.—The Bureau shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. The Director shall have had experience in statistical programs. The Director shall have final authority for all grants, cooperative agreements, and contract awarded by the Bureau. The Director shall be responsible for the integrity of data and statistics and shall protect against improper or illegal use or disclosure. The Director shall report to the Attorney General through the Assistant Attorney General. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this Act.

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Subchapter IV—Establishment of Bureau of Justice Assistance

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§ 3741. Establishment of Bureau of Justice Assistance

(a) * * *

(b) The Bureau shall be headed by a Director (hereafter in this part referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant

Attorney General. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title.

* * * * *

Subchapter II—National Institute of Justice

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§ 3722. National Institute of Justice

(a) * * *

(b) DIRECTOR OF INSTITUTE; APPOINTMENT BY PRESIDENT; AUTHORITY; RESTRICTIONS.—The Institute shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. The Director shall have had experience in justice research. The Director shall report to the Attorney General through the Assistant Attorney General. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Institute. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Institute makes any contract or other arrangement under this title.

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CHAPTER 72—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

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Subchapter II—Programs and Offices

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PART A—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

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§ 5611. Establishment

(a) * * *

(b) ADMINISTRATOR; HEAD, APPOINTMENT, AUTHORITIES, ETC.—The Office shall be headed by an Administrator (hereinafter in this title referred to as the “Administrator”) appointed by the President, by and with the advice and consent of the Senate, from among individuals who have had experience in juvenile justice programs. The Administrator is authorized to prescribe regulations consistent with this Act to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, funds made available under this title. The Administrator shall have the same reporting relationship with

the Attorney General as the directors of other offices and bureaus within the Office of Justice Programs have.

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CHAPTER 84—THE DEPARTMENT OF ENERGY

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Subchapter II—Establishment of the Department

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§ 7133. Assistant Secretaries; appointment and confirmation; identification of responsibilities

(a) There shall be in the Department 8 Assistant Secretaries, each of whom shall be appointed by the President, by and with the advice and consent of the Senate (*except that the Assistant Secretary for Congressional and Intergovernmental Affairs of the Department may be appointed by the President without the advice and consent of the Senate*); who shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of Title 5; and who shall perform, in accordance with applicable law, such of the functions transferred or delegated to, or vested in, the Secretary as he shall prescribe in accordance with the provisions of this chapter. The functions which the Secretary shall assign to the Assistant Secretaries include, but are not limited to, the following:

- (1) Energy resource applications, including functions dealing with management of all forms of energy production and utilization, including fuel supply, electric power supply, enriched uranium production, energy technology programs, and the management of energy resource leasing procedures on Federal lands.
- (2) * * *

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CHAPTER 112—VICTIM COMPENSATION AND ASSISTANCE

* * * * *

§ 10605. Establishment of Office for Victims of Crime

(a) * * *

(b) APPOINTMENT OF DIRECTOR; AUTHORITY; RESTRICTIONS.—The Office shall be headed by a Director (referred to in this chapter as the “Director”), who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General for the Office of Justice Programs and shall have final authority for all grants, cooperative agreements, and contracts awarded by the Office. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization,

agency, or institution with which the Office makes any contract or other agreement under this part.

* * * * *

CHAPTER 127—COORDINATED SERVICES FOR CHILDREN, YOUTH, AND FAMILIES

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Subchapter I—Establishment of Administration and Awarding of Grants for Programs

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PART A—ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES

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§ 12311. Establishment of the Administration on Children, Youth, and Families

(a) * * *

(b) COMMISSIONER.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administration on Children, Youth, and Families, as established under subsection (a), shall be headed by a Commissioner on Children, Youth, and Families.

(B) (Omitted)

(2) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Commissioner.

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CHAPTER 129—NATIONAL AND COMMUNITY SERVICE

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Subchapter I—National and Community Service State Grant Program

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DIVISION G—CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

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§ 12651e. Officers

(a) MANAGING DIRECTORS.—

(1) IN GENERAL.—There shall be in the Corporation 2 Managing Directors, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report to the Chief Executive Officer.

(2) * * *

(3) * * *

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TITLE 49—TRANSPORTATION

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Subtitle I—Department of Transportation

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CHAPTER 1—ORGANIZATION

* * * * *

§ 102. Department of Transportation

- (a) * * *
- (b) * * *
- (c) * * *
- (d) * * *

(e) The Department has 4 Assistant Secretaries and a General Counsel appointed by the President, by and with the advice and consent of the Senate. The Department also has an Assistant Secretary of Transportation for Administration appointed in the competitive service by the Secretary, with the approval of the President. They shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary (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 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 and Chief Financial Officer and an Assistant Secretary for Governmental Affairs, who shall each be appointed by the President;

(C) an Assistant Secretary for Administration, who shall be appointed in the competitive service 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 or the General Counsel, in the order prescribed by the Secretary, acts for the Secretary when the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are absent or unable to serve, or when the offices of the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are vacant.

* * * * *

§ 106. Federal Aviation Administration

- (a) * * *

(b) The head of the Administration is the Administrator. The Administration has a Deputy Administrator. They are appointed

who shall be appointed by the President, by and with the advice and consent of the Senate. When making an appointment, the President shall consider the fitness of the individual to carry out efficiently the duties and powers of the office. Except as provided in subsection (f) or in other provisions of law, the Administrator reports directly to the Secretary of Transportation. The term of office for any individual appointed as Administrator after August 23, 1994, shall be 5 years.

(c) * * *

(d)(1) The Deputy Administrator must *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 shall be a citizen of the United States and have experience in a field directly related to aviation. An officer on active duty in an armed force may be appointed as Deputy Administrator. However, if the Administrator is a former regular officer of an armed force, the Deputy Administrator may not be an officer on active duty in an armed force, a retired regular officer of an armed force, or a former regular officer of an armed force.*

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TITLE 50—WAR AND NATIONAL DEFENSE

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CHAPTER 37—NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS, AND GRANTS

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§ 1903. National Security Education Board

(a) * * *

(b) COMPOSITION.—The Board shall be composed of the following individuals or the representatives of such individuals:

- (1) The Secretary of Defense, who shall serve as the chairman of the Board.
- (2) The Secretary of Education.
- (3) The Secretary of State.
- (4) The Secretary of Commerce.
- (5) The Director of Central Intelligence.
- (6) The Secretary of Energy.
- (7) The Chairperson of the National Endowment for the Humanities.
- (8) Six individuals appointed by the President, by and with the advice and consent of the Senate, who shall be experts in the fields of international, language, area, and counterproliferation studies education and who may not be officers or employees of the Federal Government.

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CHAPTER 50 APPENDIX

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**OFFICE OF SELECTIVE SERVICE RECORDS ACT MARCH
31, 1947, CH 26, 61 STAT. 31**

* * * * *

**§ 321. Establishment of Office of Selective Service Records;
appointment of Director**

There is hereby established an Office of Selective Service Records, to be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate .