

118TH CONGRESS
2D SESSION

S. 5133

To establish a tracker for Senate-confirmed executive branch positions.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2024

Mr. PETERS (for himself and Mr. LANKFORD) introduced the following bill;
which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish a tracker for Senate-confirmed executive branch positions.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improving Senate Con-
5 firmation and Vacancy Oversight Act of 2024”.

6 **SEC. 2. ESTABLISHMENT OF TRACKER FOR SENATE-CON-**
7 **FIRMED EXECUTIVE BRANCH POSITIONS.**

8 (a) DEFINITIONS.—In this section:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

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

6 (B) the Committee on Oversight and Ac-
7 countability of the House of Representatives.

8 (2) COVERED PAS POSITION.—The term “cov-
9 ered PAS position” means a policy and supporting
10 position (as defined in section 3330f of title 5,
11 United States Code) in an executive branch agency
12 for which appointment is made by the President, by
13 and with the advice and consent of the Senate.

14 (3) DIRECTOR OF OPM.—The term “Director of
15 OPM” means the Director of the Office of Personnel
16 Management.

17 (4) EXECUTIVE BRANCH AGENCY.—The term
18 “executive branch agency” means an agency de-
19 scribed in subparagraph (A) or (C) of section
20 3330f(a)(1) of title 5, United States Code.

21 (5) PAS TRACKER.—The term “PAS Tracker”
22 means the Senate Confirmed Position Tracker estab-
23 lished under subsection (b)(1).

24 (6) PLUM REPORTING WEBSITE.—The term
25 “PLUM reporting website” means the website estab-

1 lished and maintained under section 3330f(b) of title
2 5, United States Code.

3 (b) ESTABLISHMENT OF TRACKER.—

4 (1) IN GENERAL.—Not later than 2 years after
5 the date of enactment of this Act, the Comptroller
6 General of the United States, in consultation with
7 the Librarian of Congress, the Director of OPM,
8 and the Director of the Congressional Research
9 Service, shall publish on the public-facing website of
10 the Government Accountability Office a new inter-
11 face or webpage, to be known as the “Senate Con-
12 firmed Position Tracker”, that displays data, which
13 shall be updated on not less than a weekly basis,
14 tracking covered PAS positions, including the indi-
15 viduals occupying covered PAS positions and the
16 status, within the Senate advice and consent process,
17 of individuals nominated for covered PAS positions.

18 (2) DESIGN.—The Comptroller General shall
19 ensure that the PAS Tracker, in addition to track-
20 ing each covered PAS position throughout the Sen-
21 ate advice and consent process, publishes informa-
22 tion, and displays the information through graphics
23 and charts, on trends and analyses of all covered
24 PAS positions, including—

1 (A) data and trends broken down by posi-
2 tions with the same title, including the percent-
3 age of covered PAS positions that—

4 (i) are occupied by an official con-
5 firmed by the Senate;

6 (ii) are occupied by an acting official;

7 or

8 (iii) are not occupied by any official;

9 (B) data and trends broken down by Sen-
10 ate committees of jurisdiction, including the
11 percentage of covered PAS positions that—

12 (i) are occupied by an official con-
13 firmed by the Senate;

14 (ii) are occupied by an acting official;

15 or

16 (iii) are not occupied by any official;

17 (C) data and trends broken down by execu-
18 tive branch agency and components thereof, in-
19 cluding the percentage of covered PAS positions
20 that—

21 (i) are occupied by an official con-
22 firmed by the Senate;

23 (ii) are occupied by an acting official;

24 or

1 (iii) are not occupied by any official;

2 and

3 (D) the percentage of all covered PAS po-
4 sitions that—

5 (i) are occupied by an official con-
6 firmed by the Senate;

7 (ii) are occupied by an acting official;

8 or

9 (iii) are not occupied by any official.

10 (3) CONSISTENT INFORMATION.—

11 (A) IN GENERAL.—In establishing and
12 maintaining the PAS tracker, the Comptroller
13 General shall—

14 (i) collect data from all executive
15 branch agencies and components thereof;
16 and

17 (ii) assess and utilize data available to
18 the Comptroller General on covered PAS
19 positions, including information provided
20 by the Library of Congress and the Office
21 of Personnel Management.

22 (B) RELATION TO PLUM REPORTING
23 WEBSITE.—The Comptroller General and the
24 Director of OPM shall work in coordination to
25 ensure that—

1 (i) all relevant information displayed
2 on both the PLUM reporting website and
3 the PAS Tracker is consistent and accu-
4 rate; and

5 (ii) there is a process to both regu-
6 larly review data across the 2 sources de-
7 scribed in clause (i) and address any dis-
8 crepancies in a timely fashion.

9 (4) DATA COLLECTED AND PUBLISHED.—

10 (A) COORDINATION; DATA AGREEMENTS.—

11 To the maximum extent practicable, the Comp-
12 troller General shall coordinate with the Librar-
13 ian of Congress, the Director of OPM, and the
14 Secretary of the Senate, and enter into relevant
15 data agreements with the Librarian of Congress
16 and the Director of OPM, to enable the Comp-
17 troller General to carry out paragraph (3) and
18 subparagraph (C) of this paragraph and to fa-
19 cilitate the Secretary's implementation of sub-
20 paragraph (B)(ii) of this paragraph.

21 (B) INFORMATION ON NEW PAS POSI-
22 TIONS.—

23 (i) REPORTING BY COMMITTEES.—

24 Each committee of the Senate or the
25 House of Representatives shall report to

1 the Secretary of the Senate the titles and
2 number of new covered PAS positions that
3 would be created under—

4 (I) any legislation that is ordered
5 reported by the committee, not later
6 than 30 days after the legislation is
7 ordered reported; or

8 (II) any amendment on the floor
9 of the Senate or the House of Rep-
10 resentatives, respectively, to legisla-
11 tion that is within the jurisdiction of
12 the committee, not later than 30 days
13 after the amendment is agreed to.

14 (ii) REPORTING BY SECRETARY OF
15 THE SENATE.—Annually, the Secretary of
16 the Senate shall issue a report to Congress
17 and the Comptroller General containing
18 the titles and number of covered PAS posi-
19 tions that were created under legislation
20 that was enacted into law during the year
21 covered by the report.

22 (C) DATA.—The Comptroller General shall
23 collect, and publish through the PAS Tracker
24 in a searchable, sortable, downloadable, ma-
25 chine-readable format, the following data:

1 (i) Each covered PAS position, includ-
2 ing—

3 (I) any covered PAS position
4 that has never been occupied or is not
5 occupied as of the date of publication
6 by an official confirmed by the Sen-
7 ate, including a covered PAS position
8 identified under subparagraph (B)(ii);
9 and

10 (II) any covered PAS position on
11 a board or commission that is admin-
12 istratively inactive, as indicated in the
13 Federal Advisory Committee Act data-
14 base.

15 (ii) For each covered PAS position,
16 the following information:

17 (I) All the information for the
18 covered PAS position that is included
19 on the PLUM reporting website pur-
20 suant to subsections (b) and (c) of
21 section 3330f of title 5, United States
22 Code.

23 (II) For any covered PAS posi-
24 tion that is not occupied by an official

1 confirmed by the Senate or an acting
2 official—

3 (aa) the dates on which the
4 acting official who most recently
5 served in the covered PAS posi-
6 tion, if any, began serving and
7 ceased serving, respectively, in
8 the covered PAS position;

9 (bb) the date on which an
10 individual was most recently ap-
11 pointed to the covered PAS posi-
12 tion;

13 (cc) the date on which a
14 nomination for the covered PAS
15 position was most recently sub-
16 mitted to the Senate; and

17 (dd) whether any statute
18 specific to the executive branch
19 agency governs the filling of the
20 position.

21 (III) Each key Senate advice and
22 consent process milestone collected on
23 congress.gov, including the date of the
24 nomination for the covered PAS posi-
25 tion, the date of the nomination hear-

1 ing, the date of the committee vote,
2 the date of each vote of the Senate,
3 and the date of final confirmation.

4 (IV) The dates on which the offi-
5 cial who most recently served in the
6 covered PAS position began serving
7 and ceased serving, respectively, in
8 the covered PAS position, including in
9 an acting capacity.

10 (V) In the case of an acting offi-
11 cial currently serving in the covered
12 PAS position, if no nomination has
13 extended the time limit under section
14 3346 of title 5, United States Code,
15 and to the maximum extent prac-
16 ticable, the number of days for which
17 the official may continue to serve in
18 an acting capacity before violating
19 such section 3346.

20 (D) FACILITATION OF COLLECTION AND
21 PUBLICATION OF DATA.—

22 (i) FACA DATA.—In order to assist
23 the Comptroller General in carrying out
24 subparagraph (C)(i)(II), the Committee
25 Management Secretariat of the General

1 Services Administration shall provide infor-
2 mation regarding any board or commission
3 that is administratively inactive to the
4 Comptroller General, the Director of OPM,
5 and Congress not less than twice each
6 year.

7 (ii) AGENCY-SPECIFIC STATUTES GOV-
8 ERNING FILLING VACANT POSITIONS.—The
9 Comptroller General shall carry out sub-
10 paragraph (C)(ii)(II)(dd) in coordination
11 with the applicable executive branch agen-
12 cy and the Office of Legal Counsel of the
13 Department of Justice.

14 (5) COORDINATION WITH OPM REGARDING ACT-
15 ING OFFICIALS.—In the case of an individual serving
16 in a covered PAS position in an acting capacity, the
17 Comptroller General shall coordinate with the Direc-
18 tor of OPM to align, and resolve any discrepancies
19 between—

20 (A) information reported to the Office of
21 Personnel Management about the individual;
22 and

23 (B) the information posted on the PAS
24 Tracker about the individual under paragraph
25 (4)(C)(ii)(V).

1 (6) AGENCY REPORTS REGARDING POSITIONS
2 WITHOUT SENATE-CONFIRMED OFFICIALS.—For
3 purposes of paragraph (4)(C)(ii)(V), in the case of
4 any covered PAS position that is not occupied by an
5 official confirmed by the Senate, the executive
6 branch agency shall report to the Comptroller Gen-
7 eral not later than 5 days after the date on which
8 an individual is designated to serve in the position
9 in an acting capacity.

10 (7) AGENCY REPORTS REGARDING START AND
11 END DATES.—Not later than 10 days after the date
12 on which an official begins serving or ceases serving
13 in a covered PAS position, including in an acting ca-
14 pacity, the executive branch agency shall report that
15 start date or end date, respectively, to the Comp-
16 troller General and the Director of OPM.

17 (c) POSITION UNIQUE IDENTIFIERS.—

18 (1) PLAN AND PROCESS FOR IMPLEMENTA-
19 TION.—Not later than 1 year after the date of en-
20 actment of this Act, the Comptroller General, in co-
21 ordination with the Director of OPM, the Librarian
22 of Congress, and the Secretary of the Senate, shall
23 establish a plan and process for implementation of
24 a unique identifier for each covered PAS position
25 that enables public-facing resources, including the

1 PAS Tracker, the PLUM reporting website, and
2 congress.gov, to have consistent and accurate infor-
3 mation on covered PAS positions.

4 (2) CONGRESSIONAL BRIEFING.—No later than
5 30 days after establishing the plan and process for
6 implementation under paragraph (1), the Comp-
7 troller General, the Director of OPM, the Librarian
8 of Congress, and the Secretary of the Senate shall
9 brief the appropriate congressional committees on
10 the plan and process for implementation.

11 (d) REPORTS.—

12 (1) AGENCY REPORTS OF SENATE-CONFIRMED
13 POSITIONS.—In addition to updating the PAS
14 Tracker, each year, on a date determined by the
15 Comptroller General in coordination with the Direc-
16 tor of OPM and taking into consideration the Direc-
17 tor's schedule for collecting data for the PLUM re-
18 porting website, the head of each executive branch
19 agency shall submit to the Comptroller General and
20 the Director of OPM the following information:

21 (A) A list of each covered PAS position in
22 the executive branch agency, including identi-
23 fication of any change to the title of any such
24 covered PAS position, along with the total num-

1 ber of covered PAS positions in the executive
2 branch agency.

3 (B) Each covered PAS position newly es-
4 tablished in the executive branch agency by
5 statute since the previous submission of infor-
6 mation under this paragraph.

7 (C) The number of covered PAS positions
8 that each covered PAS position in the executive
9 branch agency reports to.

10 (2) GAO REPORTS TO CONGRESS ON NON-
11 COMPLIANT AGENCIES.—Annually, the Comptroller
12 General shall submit to the appropriate congres-
13 sional committees a report that indicates any execu-
14 tive branch agency that has not provided informa-
15 tion, or has provided incomplete information, under
16 paragraph (1).

17 (3) BIENNIAL GAO REPORTS.—

18 (A) IN GENERAL.—Not less frequently
19 than once every 2 years for 10 years, the
20 Comptroller General shall review the implemen-
21 tation of this section and publish and submit to
22 Congress a report containing the findings of the
23 review.

1 (B) CONTENTS.—The Comptroller General
2 shall include in each review under subparagraph

3 (A)—

4 (i) a review of the accuracy and time-
5 liness of information provided in the PAS
6 Tracker;

7 (ii) an analysis of all covered PAS po-
8 sitions, including—

9 (I) an indication of any covered
10 PAS position that is on an inactive
11 board or commission within an execu-
12 tive branch agency or for which an in-
13 dividual has not been nominated or
14 confirmed for a period of more than 8
15 years, which may be a good candidate
16 for elimination or for removal of the
17 Senate advice and consent require-
18 ment;

19 (II) an analysis of any impact va-
20 cancies in covered PAS positions have
21 had on the performance and operation
22 of executive branch agencies; and

23 (III) recommendations for addi-
24 tional data needed to understand the

1 impacts of vacancies in covered PAS
2 positions;

3 (iii) a review of any challenges experi-
4 enced by, and best practices used by, the
5 Comptroller General, the Director of OPM,
6 or executive branch agencies in quickly ob-
7 taining accurate information required to
8 implement this section; and

9 (iv) a determination of—

10 (I) each covered PAS position
11 that was not occupied by an official
12 confirmed by the Senate for any pe-
13 riod of more than 365 days during the
14 preceding 2-year period;

15 (II) each covered PAS position
16 that was not occupied by an official
17 confirmed by the Senate or an acting
18 official, and for which no individual
19 had been nominated, for any period of
20 more than 365 days during the pre-
21 ceding 2-year period; and

22 (III) any covered PAS position
23 that may not need or benefit from the
24 advice and consent of the Senate.

25 (4) COMMITTEE BRIEFINGS.—

1 (A) INITIAL BRIEFING.—Not later than 1
2 year after the date of enactment of this Act, the
3 Comptroller General shall brief the appropriate
4 congressional committees on the status of the
5 development of the PAS Tracker, including a
6 review of—

7 (i) any difficulties the Comptroller
8 General is experiencing in acquiring data
9 needed to complete the PAS Tracker in ac-
10 cordance with this section; and

11 (ii) any challenges executive branch
12 agencies have reported experiencing in pro-
13 viding the information required under this
14 section.

15 (B) SECOND BRIEFING.—Not later than
16 180 days after the date on which the Comp-
17 troller General establishes the PAS Tracker,
18 the Comptroller General shall brief the appro-
19 priate congressional committees on the status of
20 the PAS Tracker, including an assessment of—

21 (i) the implementation of the PAS
22 Tracker; and

23 (ii) the key challenges and successes
24 in implementing the PAS Tracker.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to carry out this section.

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