

105TH CONGRESS  
2D SESSION

# S. 1761

To provide that the performance of duties by Federal officers of certain vacant offices of the Federal Government shall comply with the requirements of sections 3345 through 3349 of title 5, United States Code (commonly referred to as the “Vacancies Act”), and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 16, 1998

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

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## A BILL

To provide that the performance of duties by Federal officers of certain vacant offices of the Federal Government shall comply with the requirements of sections 3345 through 3349 of title 5, United States Code (commonly referred to as the “Vacancies Act”), and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Vacancies  
5       Compliance Act of 1998”.

1 **SEC. 2. ENFORCEMENT OF TIME LIMITATION ON TEM-**  
2 **PORARY FILLING OF VACANCIES.**

3 (a) IN GENERAL.—Chapter 33 of title 5, United  
4 States Code, is amended by inserting after section 3348  
5 the following new section:

6 **“§ 3348a. Enforcement of time limitation on tem-**  
7 **porary filling of vacancies**

8 “(a)(1) An individual who performs the duties of an  
9 office in any Executive agency (other than the General Ac-  
10 counting Office) that has been filled temporarily in excess  
11 of any 120-day period time limitation under section 3348  
12 may not receive pay for each day such duties are per-  
13 formed.

14 “(2) Pay not received under paragraph (1) shall be  
15 forfeited and may not be paid as backpay.

16 “(3) Notwithstanding section 1342 of title 31, para-  
17 graph (1) shall apply regardless of an individual perform-  
18 ing the duties of another office or position in addition to  
19 performing the duties of the vacant office.

20 “(b) On the first day of each month the Director of  
21 the Office of Management and Budget shall submit to the  
22 Comptroller General of the United States a report contain-  
23 ing—

24 “(1) the name of each officer of an Executive  
25 agency (other than the General Accounting Office)

1 filling an office temporarily as described under sec-  
 2 tion 3348(a);

3 “(2) the date on which each officer named  
 4 under paragraph (1) began filling the applicable of-  
 5 fice temporarily;

6 “(3) the date upon which each office being tem-  
 7 porarily filled became vacant; and

8 “(4) the date upon which any nomination to fill  
 9 any such vacancy was submitted to the Senate.

10 “(c) If the Comptroller General of the United States  
 11 makes a determination that a violation of any 120-day pe-  
 12 riod time limitation under section 3348 has occurred, the  
 13 Comptroller General shall submit a report of such deter-  
 14 mination to each House of Congress, the President, the  
 15 Secretary of the Treasury, and the Office of Personnel  
 16 Management.”.

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 18 The table of sections for chapter 33 of title 5, United  
 19 States Code, is amended by inserting after the item relat-  
 20 ing to section 3348 the following:

“3348a. Enforcement of time limitation on temporary filling of vacancies.”.

21 **SEC. 3. SUPERSEDING PROVISIONS.**

22 Sections 3345, 3346, 3347, 3348, 3348a (as added  
 23 by section 2 of this Act), and 3349 of title 5, United  
 24 States Code (commonly referred to as the “Vacancies

1 Act”), shall supersede any other provision of law, except  
2 any provision that—

3 (1) specifically cites any such section of title 5,  
4 United States Code; and

5 (2) states that such provision specifically super-  
6 sedes such section of title 5, United States Code.

7 **SEC. 4. APPLICATION TO PENDING NOMINATIONS.**

8 Section 3348a(a) of title 5, United States Code (as  
9 added by section 2 of this Act), shall not apply to any  
10 individual whose nomination to an office is pending before  
11 the Senate on the date occurring 120 days after the date  
12 of enactment of this Act with respect to the office such  
13 individual is temporarily filling.

14 **SEC. 5. EFFECTIVE DATE.**

15 This Act shall take effect on the date of enactment  
16 of this Act, except that subsection (a) of section 3348a  
17 of title 5, United States Code (as added by section 2 of  
18 this Act) shall take effect 120 days after the date of enact-  
19 ment of this Act.

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