

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the process for filling vacancies at Federal agencies and to prohibit certain officers of the Department of Homeland Security from being employed by or holding a position on the board of directors of companies that benefit from policies of the Department of Homeland Security in which the officer participated.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 1494

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside the United States, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

- 1 At the appropriate place, insert the following:
- 2 **SEC. ____ . VACANCIES.**
- 3 Subchapter III of chapter 33 of title 5, United States
- 4 Code, is amended—
- 5 (1) in section 3345—
- 6 (A) by striking subsection (a) and insert-
- 7 ing the following:

1 “(a) If an officer of an Executive agency (including
2 the Executive Office of the President, and other than the
3 Government Accountability Office) whose appointment to
4 office is required to be made by the President, by and with
5 the advice and consent of the Senate, dies, resigns, is re-
6 moved, or is otherwise unable to perform the functions and
7 duties of the office, the President shall direct an individual
8 to perform the functions and duties of such office in the
9 following manner and in the following order of priority:

10 “(1) The first assistant to the office of such of-
11 ficer, as of the date on which the vacancy arises,
12 shall perform those functions and duties temporarily
13 in an acting capacity subject to the time limitations
14 of section 3346.

15 “(2) If, as of the date on which the vacancy
16 arises, the office of the first assistant described in
17 paragraph (1) is vacant, the President shall direct
18 an individual who, as of that date, is serving in a
19 position at that Executive agency and for which ap-
20 pointment is required to be made by the President,
21 by and with the advice and consent of the Senate,
22 to perform those functions and duties temporarily in
23 an acting capacity subject to the time limitations of
24 section 3346.

1 “(3) If, as of the date on which the vacancy
2 arises, there is no individual described in paragraph
3 (2) serving at the Executive agency, the President
4 shall direct another officer or employee of such Ex-
5 ecutive agency to perform those functions and duties
6 temporarily in an acting capacity, subject to the
7 time limitations of section 3346, if—

8 “(A) during the 365-day period preceding
9 the date of death, resignation, or beginning of
10 inability to serve of the applicable officer, the
11 officer or employee served in a position in such
12 Executive agency for not less than 90 days; and

13 “(B) the rate of pay for the position de-
14 scribed in subparagraph (A) is equal to or
15 greater than the minimum rate of pay payable
16 for a position at GS-15 of the General Sched-
17 ule.

18 “(4) If, as of the date on which the vacancy
19 arises, no officer or employee described in paragraph
20 (3) is serving at the Executive agency, the President
21 shall direct an individual who, as of that date, is
22 serving in a position for which appointment is re-
23 quired to be made by the President, by and with the
24 advice and consent of the Senate, at a different Ex-
25 ecutive agency than the Executive agency to which

1 the original vacancy relates to perform those func-
2 tions and duties temporarily in an acting capacity
3 subject to the time limitations of section 3346.”; and

4 (B) by adding at the end the following:

5 “(d)(1) In this subsection, the term ‘rule’ has the
6 meaning given the term in section 551.

7 “(2) Except as provided in paragraph (3), notwith-
8 standing any other provision of law, an Executive agency
9 with respect to which the head is an individual who is serv-
10 ing temporarily in an acting capacity under this section
11 may not rescind a rule that the agency issued while the
12 head of the agency was an individual who had been ap-
13 pointed by the President, by and with the advice and con-
14 sent of the Senate.

15 “(3) Paragraph (2) shall not apply to an Executive
16 agency during the period in which the nomination of a
17 person for appointment to the position of head of that
18 agency is pending in the Senate.”; and

19 (2) in section 3346—

20 (A) in subsection (a)—

21 (i) in paragraph (1), by striking
22 “210” and inserting “60”; and

23 (ii) in paragraph (2)—

24 (I) by striking “subject to sub-
25 section (b)”;

1 (II) by striking “first or second”;
2 (B) by striking subsection (b);
3 (C) by redesignating subsection (c) as sub-
4 section (b); and
5 (D) in subsection (b), as so redesignated,
6 by striking “210-day” and inserting “60-day”.

7 **SEC. ____ . REVOLVING DOOR.**

8 Section 207 of title 18, United States Code, is
9 amended by adding at the end the following:

10 “(m) OFFICERS OF THE DEPARTMENT OF HOME-
11 LAND SECURITY.—Any person who is an officer of the De-
12 partment of Homeland Security described in section 102
13 or 103 of the Homeland Security Act of 2002 (6 U.S.C.
14 112, 113) and who, after the termination of the service
15 as an officer of the Department of Homeland Security,
16 is employed by or holds a position on the board of direc-
17 tors of any for-profit corporation that financially benefits
18 from a policy in which the person participated as such offi-
19 cer shall be punished as provided in section 216 of this
20 title.”.