

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

S. 5133

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. PETERS

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

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:

9 (1) APPROPRIATE CONGRESSIONAL COMMIT-
10 TEES.—The term “appropriate congressional com-
11 mittees” means—

1 (A) the Committee on Homeland Security
2 and Governmental Affairs of the Senate; and

3 (B) the Committee on Oversight and Ac-
4 countability of the House of Representatives.

5 (2) COVERED PAS POSITION.—The term “cov-
6 ered PAS position” means a position in an executive
7 branch agency for which appointment is made by the
8 President, by and with the advice and consent of the
9 Senate, including any such position that is listed on
10 the PLUM reporting website.

11 (3) DIRECTOR OF OPM.—The term “Director of
12 OPM” means the Director of the Office of Personnel
13 Management.

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

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

21 (6) PLUM REPORTING WEBSITE.—The term
22 “PLUM reporting website” means the website estab-
23 lished and maintained under section 3330f(b) of title
24 5, United States Code.

1 (7) POSITION UNIQUE IDENTIFIER.—The term
2 “position unique identifier” means a unique number
3 associated with a covered PAS position that does not
4 change with a modification of the duties or title of
5 the covered PAS position.

6 (b) ESTABLISHMENT OF TRACKER.—

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

21 (2) DESIGN.—Not later than 180 days after es-
22 tablishing the PAS Tracker, the Comptroller Gen-
23 eral shall ensure that the PAS Tracker, in addition
24 to tracking each covered PAS position throughout
25 the Senate advice and consent process, publishes in-

1 formation, and displays the information through
2 graphics and charts, on trends and analyses of all
3 covered PAS positions, including—

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

7 (i) are occupied by an official con-
8 firmed by the Senate;

9 (ii) are occupied by an acting official;

10 or

11 (iii) are not occupied by any official;

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

15 (i) are occupied by an official con-
16 firmed by the Senate;

17 (ii) are occupied by an acting official;

18 or

19 (iii) are not occupied by any official;

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

24 (i) are occupied by an official con-
25 firmed by the Senate;

1 (ii) are occupied by an acting official;

2 or

3 (iii) are not occupied by any official;

4 and

5 (D) the percentage of all covered PAS po-
6 sitions that—

7 (i) are occupied by an official con-
8 firmed by the Senate;

9 (ii) are occupied by an acting official;

10 or

11 (iii) are not occupied by any official.

12 (3) CONSISTENT INFORMATION.—

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

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

18 and

19 (ii) assess and utilize data available to
20 the Comptroller General on covered PAS
21 positions, including—

22 (I) information provided by the
23 Library of Congress; and

1 (II) information provided by the
2 Office of Personnel Management
3 through the PLUM reporting website.

4 (B) RELATION TO PLUM REPORTING
5 WEBSITE.—The Comptroller General and the
6 Director of OPM shall work in coordination to
7 ensure that—

8 (i) all relevant information displayed
9 on both the PLUM reporting website and
10 the PAS Tracker is consistent and accu-
11 rate; and

12 (ii) there is a process to both regu-
13 larly review data across the 2 sources de-
14 scribed in clause (i) and address any dis-
15 crepancies in a timely fashion.

16 (4) DATA COLLECTED AND PUBLISHED.—

17 (A) COORDINATION; DATA AGREEMENTS.—

18 To the maximum extent practicable, the Comp-
19 troller General shall coordinate with the Librar-
20 ian of Congress, the Director of OPM, and the
21 Secretary of the Senate, and enter into relevant
22 data agreements with the Librarian of Congress
23 and the Director of OPM, to enable the Comp-
24 troller General to carry out paragraph (3) and
25 subparagraph (C) of this paragraph and to fa-

1 facilitate the Secretary's implementation of sub-
2 paragraph (B)(ii) of this paragraph.

3 (B) INFORMATION ON NEW OR ELIMI-
4 NATED PAS POSITIONS, CHANGES TO COM-
5 MITTEE OF JURISDICTION, AND CHANGES TO
6 PRIVILEGED CALENDAR.—

7 (i) REPORTING BY COMMITTEES.—

8 Each committee of the Senate or the
9 House of Representatives shall report to
10 the Secretary of the Senate the titles and
11 number of—

12 (I) covered PAS positions under
13 the jurisdiction of the committee that
14 are created or eliminated (including
15 through removal of the Senate advice
16 and consent requirement or elimi-
17 nation of the position entirely) under
18 any legislation enacted into law, not
19 later than 30 days after the date of
20 enactment;

21 (II) covered PAS positions that
22 are added to or removed from the ju-
23 risdiction of the committee, not later
24 than 30 days after the date of the ad-
25 dition or removal; and

1 (III) covered PAS positions
2 under the jurisdiction of the com-
3 mittee that are added to or removed
4 from the list of positions entitled to
5 expedited procedures under section 2
6 of Senate Resolution 116 (112th Con-
7 gress), agreed to June 29, 2011 (com-
8 monly known as the “Privileged Cal-
9 endar”), not later than 30 days after
10 the date of the addition or removal.

11 (ii) REPORTING BY SECRETARY OF
12 THE SENATE.—Annually, the Secretary of
13 the Senate shall issue a report to Congress
14 and the Comptroller General containing
15 the titles and number of—

16 (I) covered PAS positions that
17 were created or eliminated under leg-
18 islation enacted into law during the
19 year covered by the report;

20 (II) covered PAS positions for
21 which the committee of jurisdiction of
22 the Senate or the House of Represent-
23 atives changed during the year cov-
24 ered by the report; and

1 (III) covered PAS positions that
2 were added to or removed from the
3 Privileged Calendar during the year
4 covered by the report.

5 (C) DATA.—The Comptroller General shall
6 collect, and publish through the PAS Tracker
7 in a searchable, sortable, downloadable, ma-
8 chine-readable format, the following data:

9 (i) Each covered PAS position, includ-
10 ing—

11 (I) any covered PAS position
12 that has never been occupied or is not
13 occupied as of the date of publication
14 by an official confirmed by the Sen-
15 ate, including a covered PAS position
16 identified under subparagraph (B)(ii);
17 and

18 (II) any covered PAS position on
19 a board or commission that is admin-
20 istratively inactive, as indicated in the
21 Federal Advisory Committee Act data-
22 base.

23 (ii) For each covered PAS position,
24 the following information:

1 (I) All the information for the
2 covered PAS position that is included
3 on the PLUM reporting website pur-
4 suant to subsections (b) and (c) of
5 section 3330f of title 5, United States
6 Code.

7 (II) For any covered PAS posi-
8 tion that is not occupied by an official
9 confirmed by the Senate or an acting
10 official—

11 (aa) the dates on which the
12 acting official who most recently
13 served in the covered PAS posi-
14 tion, if any, began serving and
15 ceased serving, respectively, in
16 the covered PAS position;

17 (bb) the date on which an
18 individual was most recently ap-
19 pointed to the covered PAS posi-
20 tion;

21 (cc) the date on which a
22 nomination for the covered PAS
23 position was most recently sub-
24 mitted to the Senate; and

1 (dd) whether any statute
2 specific to the executive branch
3 agency governs how the executive
4 branch agency can fill the posi-
5 tion.

6 (III) Each key Senate advice and
7 consent process milestone collected on
8 congress.gov, including the date of the
9 nomination for the covered PAS posi-
10 tion, the date of the nomination hear-
11 ing, the date of the committee vote,
12 the date of each vote of the Senate,
13 and the date of final confirmation.

14 (IV) The dates on which the offi-
15 cial who most recently served in the
16 covered PAS position began serving
17 and ceased serving, respectively, in
18 the covered PAS position, including in
19 an acting capacity.

20 (V) In the case of an acting offi-
21 cial currently serving in the covered
22 PAS position, if no nomination has
23 extended the time limit under section
24 3346 of title 5, United States Code,
25 and to the maximum extent prac-

1 ticable, the number of days for which
2 the official may continue to serve in
3 an acting capacity before violating
4 such section 3346.

5 (D) FACILITATION OF COLLECTION AND
6 PUBLICATION OF DATA.—

7 (i) FACA DATA.—In order to assist
8 the Comptroller General in carrying out
9 subparagraph (C)(i)(II), the Committee
10 Management Secretariat of the General
11 Services Administration shall provide infor-
12 mation regarding any board or commission
13 that is administratively inactive to the
14 Comptroller General, the Director of OPM,
15 and Congress not less than twice each
16 year.

17 (ii) AGENCY-SPECIFIC STATUTES GOV-
18 ERNING FILLING VACANT POSITIONS.—The
19 Comptroller General shall carry out sub-
20 paragraph (C)(ii)(II)(dd) in coordination
21 with the applicable executive branch agen-
22 cy and the Office of Legal Counsel of the
23 Department of Justice.

24 (5) COORDINATION WITH OPM REGARDING ACT-
25 ING OFFICIALS.—In the case of an individual serving

1 in a covered PAS position in an acting capacity, the
2 Comptroller General shall coordinate with the Direc-
3 tor of OPM to align, and resolve any discrepancies
4 between—

5 (A) information reported to the Office of
6 Personnel Management about the individual;
7 and

8 (B) the information posted on the PAS
9 Tracker about the individual under paragraph
10 (4)(C)(ii)(V).

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

20 (7) AGENCY REPORTS REGARDING START AND
21 END DATES.—Not later than 10 days after the date
22 on which an official begins serving or ceases serving
23 in a covered PAS position, including in an acting ca-
24 pacity, the executive branch agency shall report that

1 start date or end date, respectively, to the Comp-
2 troller General and the Director of OPM.

3 (c) POSITION UNIQUE IDENTIFIERS.—

4 (1) PLAN AND PROCESS FOR IMPLEMENTA-
5 TION.—Not later than 1 year after the date of en-
6 actment of this Act, the Comptroller General, in co-
7 ordination with the Director of OPM, the Librarian
8 of Congress, and the Secretary of the Senate, shall
9 establish a plan and process for implementation of
10 a position unique identifier for each covered PAS po-
11 sition that enables public-facing resources, including
12 the PAS Tracker, the PLUM reporting website, and
13 congress.gov, to have consistent and accurate infor-
14 mation on covered PAS positions.

15 (2) CONGRESSIONAL BRIEFING.—No later than
16 30 days after establishing the plan and process for
17 implementation under paragraph (1), the Comp-
18 troller General, the Director of OPM, the Librarian
19 of Congress, and the Secretary of the Senate shall
20 brief the appropriate congressional committees on
21 the plan and process for implementation.

22 (d) REPORTS.—

23 (1) AGENCY REPORTS OF SENATE-CONFIRMED
24 POSITIONS.—In addition to providing information to
25 the Comptroller General under subsection

1 (b)(3)(A)(i), each year, on a date determined by the
2 Comptroller General in coordination with the Direc-
3 tor of OPM and taking into consideration the Direc-
4 tor's schedule for collecting data for the PLUM re-
5 porting website, the head of each executive branch
6 agency shall submit to the Comptroller General and
7 the Director of OPM the following information:

8 (A) A list of each covered PAS position in
9 the executive branch agency and the position
10 unique identifier for the covered PAS position
11 established under subsection (c), including iden-
12 tification of any change to the title of any such
13 covered PAS position, along with the total num-
14 ber of covered PAS positions in the executive
15 branch agency.

16 (B) Each covered PAS position newly es-
17 tablished in the executive branch agency by
18 statute since the previous submission of infor-
19 mation under this paragraph.

20 (C) The number of covered PAS positions
21 that each covered PAS position in the executive
22 branch agency reports to.

23 (2) GAO REPORTS TO CONGRESS ON NON-
24 COMPLIANT AGENCIES.—Annually, the Comptroller
25 General shall submit to the appropriate congres-

1 sional committees a report that indicates any execu-
2 tive branch agency that has not provided informa-
3 tion, or has provided incomplete information, under
4 paragraph (1).

5 (3) BIENNIAL GAO REPORTS.—

6 (A) IN GENERAL.—Not less frequently
7 than once every 2 years for 10 years, the
8 Comptroller General shall review the implemen-
9 tation of this section and publish and submit to
10 Congress a report containing the findings of the
11 review.

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

14 (A)—

15 (i) an analysis of all covered PAS po-
16 sitions, including—

17 (I) an indication of any covered
18 PAS position that is on an inactive
19 board or commission within an execu-
20 tive branch agency or for which an in-
21 dividual has not been nominated or
22 confirmed for a period of more than 4
23 years, which may be a good candidate
24 for elimination or for removal of the

1 Senate advice and consent require-
2 ment;

3 (II) an analysis of any impact va-
4 cancies in covered PAS positions have
5 had on the performance and operation
6 of executive branch agencies; and

7 (III) recommendations for addi-
8 tional data needed to understand the
9 impacts of vacancies in covered PAS
10 positions;

11 (ii) a review of any challenges experi-
12 enced by the Comptroller General in quick-
13 ly obtaining accurate information required
14 to implement this section; and

15 (iii) a determination of—

16 (I) each covered PAS position
17 that was not occupied by an official
18 confirmed by the Senate for any pe-
19 riod of more than 365 days during the
20 preceding 2-year period;

21 (II) each covered PAS position
22 that was not occupied by an official
23 confirmed by the Senate or an acting
24 official, and for which no individual
25 had been nominated, for any period of

1 more than 365 days during the pre-
2 ceding 2-year period; and

3 (III) any covered PAS position
4 that may not need or benefit from the
5 advice and consent of the Senate.

6 (4) COMMITTEE BRIEFINGS.—

7 (A) INITIAL BRIEFING.—Not later than 1
8 year after the date of enactment of this Act, the
9 Comptroller General shall brief the appropriate
10 congressional committees on the status of the
11 development of the PAS Tracker, including a
12 review of—

13 (i) any difficulties the Comptroller
14 General is experiencing in acquiring data
15 needed to complete the PAS Tracker in ac-
16 cordance with this section; and

17 (ii) any challenges executive branch
18 agencies have reported experiencing in pro-
19 viding the information required under this
20 section.

21 (B) SECOND BRIEFING.—Not later than
22 180 days after the date on which the Comp-
23 troller General establishes the PAS Tracker,
24 the Comptroller General shall brief the appro-

1 prieve congressional committees on the status of
2 the PAS Tracker, including an assessment of—
3 (i) the implementation of the PAS
4 Tracker; and
5 (ii) the key challenges and successes
6 in implementing the PAS Tracker.