



United States Senate

Committee on Homeland Security and Governmental Affairs

Chairman Joseph I. Lieberman, ID-Conn.

Opening Statement of Chairman Joseph Lieberman
“Eliminating the Bottlenecks: Streamlining the Nominations Process”
Homeland Security and Governmental Affairs Committee
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As Prepared for Delivery

The hearing will come to order. Good morning and thank you for coming. This is one of those topics and hearings that attracts not much public attention, but is actually greatly in the public interest.

I thought I'd start with a bit of history. On a single day in 1789, the Senate took up and confirmed 101 executive nominations President Washington had sent up just two days earlier – rejecting only one.

And our first president complained – politely, I'm sure – to the Senate about the one he didn't get. My history doesn't go back this far, but I bet they performed as well as the thousands and thousands of nominations since that have taken months and months and months.

Modern Presidents of both parties would sigh, because nowadays the process by which a person is selected, vetted, nominated, and then considered and confirmed by the Senate has become – in the words of one scholar – “nasty and brutish, without being short.”

One hundred days into President Obama's Administration, only 14 percent of the Senate-confirmed positions in his Administration had been filled. After 18 months, 25 percent of these positions were still vacant. And this is not an aberration or anomaly: the timetables for putting in place a leadership team across the government has been pretty much the same each of the last three times there has been a change of occupant in the White House.

We've known about this problem a long time, but failed to act.

In 2001, under former Chairman Fred Thompson, this Committee held hearings on “The State of the Presidential Appointment Process” and recommended legislation, which did not pass.

In 2003, a bipartisan commission headed by Paul Volker recommended ways to speed up the nominations process. That got nowhere.

In 2004, the 9-11 Commission said the delays in getting a new government up and running actually pose a threat to our national security and in its report it also recommended ways to speed up the process.

Well after years of talk, it may well be that the time for change has finally arrived and we'll have bipartisan support. This is a case where it ain't over till it's over, so while I'm encouraged, I'm not confident yet.

In January, Majority Leader Reid and Minority Leader McConnell established a working group on executive nominations and appointed Senators Schumer and Alexander – chairman and ranking member, respectively, of the Rules Committee – to lead it. Senators Schumer and Alexander have been working on draft legislation, which we expect will be introduced shortly.

Senator Collins and I have been part of the working group on this bill and we hope to introduce a bill shortly.

The nature of the problem becomes clear when we look at the numbers.

A study by the Congressional Research Service says the delay occurs not so much at the Cabinet level positions. Presidents Reagan, George W. Bush, Clinton and Obama all were able to get the vast majority of their nominees for Cabinet Secretaries in place on or shortly after Inauguration Day.

Where the delay is most pronounced, according to CRS, is in the sub-cabinet level positions. Under President Reagan, nominees averaged 114 days from the President's election to final confirmation. Under Clinton, George W. Bush and Obama those numbers jumped to 185, 198 and 195 respectively.

Part of the problem is that the number of positions requiring confirmation has grown over time.

When President Reagan took office, he had 295 key policy positions requiring confirmation. By the time President Obama was inaugurated, that number had grown to 422 key positions, plus another nearly 800 lesser positions that also required Senate confirmation.

And these numbers do not include judges, foreign service officers, or public health officials that also require Senate confirmation.

The legislation Senators Schumer and Alexander are working on will recommend eliminating Senate confirmation for several categories of presidential appointments, freeing up the Senate to concentrate on the more important policy-making nominees.

It will raise and answer some other important questions. For instance, can we simplify, standardize and centralize the forms and documentation required by both the White House and Senate so a nominee isn't stretched out with duplicative paperwork and information requests?

And second, since we know there will be a flood of nominations with each new administration, can we create what might be called a "surge" capacity by temporarily adding personnel to the White House Office of Presidential Personnel and perhaps the FBI to handle vetting and background checks more efficiently?

In the past, the reason nominations reform legislation has stalled is evident and not really acceptable. It is because of the perceived fears of some of our colleagues, particularly chairs and ranking members that they would be giving up some of their jurisdiction and authority. The truth is that not only some of these nominations shouldn't be, but frankly it's a waste of the Committee's time when we can and should be working on legislation.

Nothing in the legislation we are working on will weaken in any way the Senate's important Constitutional role of "advice and consent."

If I may end with a little history, As Gouverneur Morris, one of the architects of the Constitution, said when speaking in favor of the "advice and consent" clause: "As the President was to nominate, there would be responsibility. And as the Senate was to concur, there would be security."

Those essential national goals and principles for our government will be unaffected by the kinds of changes, which are actually relatively modest, that we are talking about. But I believe and hope we can get it done this year.

Nothing we are considering will dilute this important part of our delicate system of checks and balances.

But if we don't fix what is broken in this system, I fear we risk discouraging some of our nation's most talented individuals from accepting nominations and leaving important positions unfilled.

I call on my fellow chairmen, ranking members and colleagues on both sides of the aisle to work with us on addressing this challenge so the next new Administration, regardless of party, can recruit the best candidates and then put them to work quickly addressing the many challenges our nation faces.