To amend title 5, United States Code, to modify the provisions of that title relating to the Federal Vacancies Reform Act of 1998, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Porter introduced the following bill; which was referred to the Committee on ____________________

A BILL

To amend title 5, United States Code, to modify the provisions of that title relating to the Federal Vacancies Reform Act of 1998, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Accountability for Acting Officials Act”.
SEC. 2. CLARIFICATION OF FEDERAL VACANCIES REFORM

ACT OF 1998.

(a) FIRST ASSISTANT REQUIREMENTS.—Section 3345 of title 5, United States Code, is amended as follows:

(1) In subsection (a)—

(A) in paragraph (1), by adding at the end before the semi-colon the following: “, but, and except as provided in subsection (e), only if the individual serving in the position of first assistant has occupied such position for a period of at least 30 days during the 365-day period preceding the date of the death, resignation, or beginning of inability to serve”; and

(B) by striking subparagraph (A) of paragraph (3) and inserting the following:

“(A) the officer or employee served in a position in such agency for a period of at least 1 year preceding the date of death, resignation, or beginning of inability to serve of the applicable officer; and”.

(2) By adding at the end the following:

“(d) For purposes of this section, a position shall be considered to be the first assistant to the office with respect to which a vacancy occurs only if such position has been designated, at least 30 days before the date of the vacancy, by law, rule, or regulation as the first assistant
position. The previous sentence shall begin to apply on the date that is 180 days after the date of enactment of the Accountability for Acting Officials Act.

“(e) The 30-day service requirement in subsection (a)(1) shall not apply to any individual who is a first assistant if—

“(1) the office of such first assistant is an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate; and

“(2) the Senate has approved the appointment of such individual to such office.”.

(b) QUALIFICATIONS.—Section 3345(b) of title 5, United States Code, is amended by adding at the end the following:

“(3) Any individual directed to perform the functions and duties of the vacant office temporarily in an acting capacity under subsection (a)(2) or (f) shall possess the qualifications (if any) set forth in law, rule, or regulation that are otherwise applicable to an individual appointed by the President, by and with the advice and consent of the Senate, to occupy such office.”.

(e) APPLICATION TO INDIVIDUALS REMOVED FROM OFFICE.—Paragraph (2) of section 3345(c) of title 5, United States Code, is amended by inserting after “the
expiration of a term of office” the following: “or removal
(voluntarily or involuntarily) from office”.

(d) VACANCY OF INSPECTOR GENERAL POSITIONS.—

(1) IN GENERAL.—Section 3345 of title 5, United States Code, as amended by subsection (a)(2), is further amended by adding at the end the following:

“(f)(1) Notwithstanding subsection (a), if an Inspector General position that requires appointment by the President by and with the advice and consent of the Senate to be filled is vacant, the first assistant of such position shall perform the functions and duties of the Inspector General temporarily in an acting capacity subject to the time limitations of section 3346.

“(2) Notwithstanding subsection (a), if for purposes of carrying out paragraph (1) of this subsection, by reason of absence, disability, or vacancy, the first assistant to the position of Inspector General is not available to perform the functions and duties of the Inspector General, an acting Inspector General shall be appointed by the President from among individuals serving in an office of any Inspector General, provided that—

“(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of the applicable Inspector General, the in-
individual served in a position in an office of any Inspector General for not less than 90 days; and

“(B) the rate of pay for the position of such individual is equal to or greater than the minimum rate of pay payable for a position at GS–15 of the General Schedule.”.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to any vacancy first occurring with respect to an Inspector General position on or after the date of enactment of this Act.

(e) TESTIMONY OF ACTING OFFICIALS BEFORE CONGRESS.—Section 3345 of title 5, United States Code, as amended by subsection (d)(1), is further amended by adding at the end the following:

“(g)(1) Any individual serving as an acting officer due to a vacancy to which this section applies, or any individual who has served in such capacity and continues to perform the same or similar duties beyond the time limits described in section 3346, shall appear, at least once during any 60-day period that the individual is so serving, before the appropriate committees of jurisdiction of the House of Representatives and the Senate.

“(2) Paragraph (1) may be waived upon mutual agreement of the chairs and ranking members of such committees.”.
(f) **Time Limitation for Principal Officers.**—

Section 3346 of title 5, United States Code, is amended—

(1) in subsection (a), by inserting “or as provided in subsection (d)” after “sickness”; and

(2) by adding at the end the following:

“(d) With respect to the vacancy of the position of head of any agency listed in subsection (b) of section 901 of title 31, or any other position that is within the President’s cabinet and to which this section applies, subsections (a) through (c) of this section and sections 3348(c), 3349(b), and 3349a(b) shall be applied by substituting ‘120’ for ‘210’ in each instance.”.

(g) **Exclusivity.**—Section 3347 of title 5, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b) Notwithstanding subsection (a), any statutory provision covered under paragraph (1) of such subsection that contains a non-discretionary order or directive to designate an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity shall be the exclusive means for temporarily author-
izing an acting official to perform the functions and duties
of such office.”.

(h) REPORTING OF VACANCIES.—

(1) IN GENERAL.—Section 3349 of title 5, United States Code, is amended—

(A) in subsection (a)—

(i) by striking “immediately upon” in each instance and inserting “not later than 7 days after”;

(ii) in paragraph (3), by striking “and” at the end;

(iii) in paragraph (4), by striking the period at the end and inserting “; and”;

and

(iv) by adding at the end the following:

“(5) notification of the end of the term of service of any person serving in an acting capacity and the name of any subsequent person serving in an acting capacity and the date the service of such subsequent person began not later than 7 days after such date.”; and

(B) in subsection (b), by striking “immediately” and inserting “not later than 14 days after the date of such determination”.

7
(2) TECHNICAL CORRECTIONS.—Paragraphs (1) and (2) of subsection (b) of such section 3349 are amended to read as follows:

“(1) the Committee on Homeland Security and Governmental Affairs of the Senate;”.

“(2) the Committee on Oversight and Reform of the House of Representatives;”.

(i) VACANCIES DURING PRESIDENTIAL INAUGURAL TRANSITIONS.—Subsection (b) of section 3349a of title 5, United States Code, is amended to read as follows:

“(b) Notwithstanding section 3346 (except as provided in paragraph (2) of this subsection) or 3348(c), with respect to any vacancy that exists on a transitional inauguration day, or that arises during the 60-day period beginning on such day, the person serving as an acting officer as described under section 3345 may serve in the office—

“(1) for no longer than 300 days beginning on such day; or

“(2) subject to subsection 3346(b), once a first or second nomination for the office is submitted to the Senate, from the date of such nomination for the period that the nomination is pending in the Senate.”.