

111TH CONGRESS  
1ST SESSION

# H. R. 2721

To provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2009

Mr. DAVIS of Illinois (for himself, Mr. CUMMINGS, Ms. NORTON, Mr. GONZALEZ, Mr. JOHNSON of Georgia, and Mr. CLAY) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

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## A BILL

To provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service.

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 “Senior Executive Serv-  
5 ice Diversity Assurance Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) according to the Government Accountability

9 Office—

1 (A) minorities made up 22.5 percent of the  
2 individuals serving at the GS–15 and GS–14  
3 levels and 15.8 percent of the Senior Executive  
4 Service in 2007;

5 (B) women made up 34.3 percent of the  
6 individuals serving at the GS–15 and GS–14  
7 levels and 29.1 percent of the Senior Executive  
8 Service in 2007; and

9 (C) although the number of career Senior  
10 Executive Service members increased from  
11 6,110 in 2,000 to 6,555 in 2007, the represen-  
12 tation of African-American men in the career  
13 Senior Executive Service declined during that  
14 same period from 5.5 percent to 5.0 percent;  
15 and

16 (2) according to the Office of Personnel Man-  
17 agement—

18 (A) black employees represented 6.1 per-  
19 cent of employees at the Senior Pay levels and  
20 17.8 percent of the permanent Federal work-  
21 force compared to 10.1 percent in the civilian  
22 labor force in 2007;

23 (B) Hispanic employees represented 4.0  
24 percent of employees at the Senior Pay levels  
25 and 7.8 percent of the permanent Federal

1 workforce compared to 13.3 percent of the civil-  
2 ian labor force in 2007; and

3 (C) women represented 28.2 percent of  
4 employees at the Senior Pay levels and 43.9  
5 percent of the permanent Federal workforce  
6 compared to 45.7 percent of the civilian labor  
7 force in 2007.

8 **SEC. 3. DEFINITIONS.**

9 For purposes of this Act—

10 (1) the term “Director” means the Director of  
11 the Office of Personnel Management;

12 (2) the term “Senior Executive Service” has the  
13 meaning given such term by section 2101a of title  
14 5, United States Code;

15 (3) the terms “agency”, “career appointee”,  
16 and “career reserved position” have the meanings  
17 given them by section 3132 of title 5, United States  
18 Code; and

19 (4) the term “SES Resource Office” means the  
20 Senior Executive Service Resource Office, estab-  
21 lished under section 4.

22 **SEC. 4. SENIOR EXECUTIVE SERVICE RESOURCE OFFICE.**

23 (a) ESTABLISHMENT.—Not later than 180 days after  
24 the date of the enactment of this Act, the Director shall  
25 establish within the Office of Personnel Management an

1 office to be known as the Senior Executive Service Re-  
2 source Office. The mission of the SES Resource Office  
3 shall be—

4           (1) to improve the efficiency, effectiveness, and  
5           productivity of the Senior Executive Service through  
6           policy formulation and oversight;

7           (2) to advance the professionalism of the Senior  
8           Executive Service; and

9           (3) to ensure that, in seeking to achieve a Sen-  
10          ior Executive Service reflective of the Nation's diver-  
11          sity, recruitment is from qualified individuals from  
12          appropriate sources.

13          (b) FUNCTIONS.—It shall be the function of the SES  
14          Resource Office to make recommendations to the Director  
15          with respect to regulations, and to provide guidance to  
16          agencies, concerning the structure, management, and di-  
17          verse composition of the Senior Executive Service. In  
18          order to carry out the purposes of this section, the SES  
19          Resource Office shall—

20                (1) take such actions as the SES Resource Of-  
21                fice considers necessary to manage and promote an  
22                efficient, elite, and diverse corps of senior executives  
23                by—

1 (A) creating policies for the management  
2 and improvement of the Senior Executive Serv-  
3 ice;

4 (B) providing oversight of the perform-  
5 ance, structure, and composition of the Senior  
6 Executive Service; and

7 (C) providing guidance and oversight to  
8 agencies in the management of senior executives  
9 and candidates for the Senior Executive Serv-  
10 ice;

11 (2) be responsible for the policy development,  
12 management, and oversight of the Senior Executive  
13 Service pay system;

14 (3) develop standards for certification of each  
15 agency's Senior Executive Service performance man-  
16 agement system and evaluate all agency applications  
17 for certification;

18 (4) be responsible for developing and moni-  
19 toring programs for the advancement and training of  
20 senior executives, including the Senior Executive  
21 Service Federal Candidate Development Program;

22 (5) provide oversight of, and guidance to, agen-  
23 cy executive resources boards;

24 (6) be responsible for the administration of the  
25 qualifications review board;

1           (7) establish and maintain annual statistics (in  
2 a form that renders them useful to appointing au-  
3 thorities and candidates) on—

4           (A) the total number of career reserved po-  
5 sitions at each agency;

6           (B) the total number of vacant career re-  
7 served positions at each agency;

8           (C) of the positions under subparagraph  
9 (B), the number for which candidates are being  
10 sought;

11           (D) the number of individuals who have  
12 been certified in accordance with section  
13 3393(c) of title 5, United States Code, and the  
14 composition of that group of individuals with  
15 regard to race, ethnicity, sex, age, and individ-  
16 uals with disabilities;

17           (E) the composition of the Senior Execu-  
18 tive Service with regard to race, ethnicity, sex,  
19 age, and individuals with disabilities;

20           (F) the composition of executive resources  
21 boards with regard to race, ethnicity, sex, and  
22 individuals with disabilities; and

23           (G) the composition of qualifications re-  
24 view boards with regard to race, ethnicity, sex,  
25 and individuals with disabilities;

1           (8) make available to the public through the of-  
2           ficial public internet site of the Office of Personnel  
3           Management, the data collected under paragraph  
4           (7);

5           (9) establish mentoring programs for potential  
6           candidates for the Senior Executive Service, includ-  
7           ing candidates who have been certified as having the  
8           executive qualifications necessary for initial appoint-  
9           ment as a career appointee under a program estab-  
10          lished pursuant to section 3396(a) of title 5, United  
11          States Code;

12          (10) conduct a continuing program for the re-  
13          cruitment of women, members of racial and ethnic  
14          minority groups, and individuals with disabilities for  
15          Senior Executive Service positions, with special ef-  
16          forts directed at recruiting from educational institu-  
17          tions, professional associations, and other sources;

18          (11) advise agencies on the best practices for  
19          an agency in utilizing or consulting with an agency's  
20          equal employment or diversity office or official (if  
21          the agency has such an office or official) with regard  
22          to the agency's Senior Executive Service appoint-  
23          ments process; and

24          (12) evaluate and implement strategies to en-  
25          sure that agencies conduct appropriate outreach to

1 other agencies to identify candidates for Senior Ex-  
2 ecutive Service positions.

3 (c) PROTECTION OF INDIVIDUALLY IDENTIFIABLE  
4 INFORMATION.—For purposes of subsection (b)(8), the  
5 SES Resource Office may combine data for any agency  
6 that is not named in section 901(b) of chapter 31, United  
7 States Code, to protect individually identifiable informa-  
8 tion.

9 (d) COOPERATION OF AGENCIES.—The head of each  
10 agency shall provide the Office of Personnel Management  
11 with such information as the SES Resource Office may  
12 require in order to carry out subsection (b)(7).

13 **SEC. 5. CAREER APPOINTMENTS.**

14 (a) PROMOTING DIVERSITY IN THE CAREER AP-  
15 POINTMENTS PROCESS.—Section 3393 of title 5, United  
16 States Code, is amended—

17 (1) in subsection (b), by inserting after the first  
18 sentence the following: “In establishing an executive  
19 resources board, the head of the agency shall, to the  
20 extent practicable, ensure diversity of the board and  
21 of any subgroup thereof or other evaluation panel re-  
22 lated to the merit staffing process for career ap-  
23 pointees, by including members of racial and ethnic  
24 minority groups, women, and individuals with dis-  
25 abilities.”; and



1           (2) in subsection (c)(1), by adding after the last  
2 sentence the following: “Notwithstanding the pre-  
3 ceding sentence, consideration should also be given  
4 to improving diversity by including members of ra-  
5 cial and ethnic minority groups, women, and individ-  
6 uals with disabilities on such boards.”.

7           (b) REGULATIONS.—Within 1 year after the date of  
8 the enactment of this Act, the Director shall promulgate  
9 regulations to implement the amendments made by sub-  
10 section (a) and to improve diversity in executive resources  
11 boards and qualifications review boards.

12           (c) REPORT.—Within 1 year after the date of the en-  
13 actment of this Act, the Director shall submit to the Com-  
14 mittee on Oversight and Government Reform of the House  
15 of Representatives and the Committee on Homeland Secu-  
16 rity and Governmental Affairs of the Senate a report eval-  
17 uating agency efforts to improve diversity in executive re-  
18 sources boards and of the members designated by agencies  
19 to serve on qualifications review boards, based on the in-  
20 formation collected by the SES Resource Office under sub-  
21 paragraphs (F) and (G) of section 4(b)(7).

22 **SEC. 6. ENCOURAGING A MORE DIVERSE SENIOR EXECU-**  
23 **TIVE SERVICE.**

24           (a) SENIOR EXECUTIVE SERVICE DIVERSITY  
25 PLANS.—Within 1 year after the date of the enactment

1 of this Act, each agency, in consultation with the Office  
2 of Personnel Management, shall submit to the Office of  
3 Personnel Management a plan to enhance and maximize  
4 opportunities for the advancement and appointment of mi-  
5 norities, women, and individuals with disabilities in the  
6 agency to the Senior Executive Service. Agency plans shall  
7 address how the agency is identifying and eliminating bar-  
8 riers that impair the ability of minorities, women, and in-  
9 dividuals with disabilities to obtain appointments to the  
10 Senior Executive Service and any actions the agency is  
11 taking to provide advancement opportunities, including—

12           (1) conducting outreach to minorities, women,  
13           and individuals within the agency and outside the  
14           agency;

15           (2) establishing and maintaining training and  
16           education programs to foster leadership develop-  
17           ment;

18           (3) identifying career enhancing opportunities  
19           for agency employees;

20           (4) assessing internal availability of candidates  
21           for Senior Executive Service positions; and

22           (5) conducting an inventory of employee skills  
23           and addressing current and potential gaps in skills  
24           and the distribution of skills.

1 Agency plans shall be updated at least every 2 years dur-  
2 ing the 10 years following enactment of this Act. An agen-  
3 cy plan shall be reviewed by the Office of Personnel Man-  
4 agement and, if determined to provide sufficient assur-  
5 ances, procedures, and commitments to provide adequate  
6 opportunities for the advancement and appointment of mi-  
7 norities, women, and individuals with disabilities to the  
8 Senior Executive Service, shall be approved by such Office.  
9 An agency may, in updating its plan, submit to the Office  
10 of Personnel Management an assessment of the impacts  
11 of the plan.

12 (b) SUMMARY AND EVALUATION.—Within 180 days  
13 after the deadline for the submission of any report or up-  
14 date under subsection (a), the Director shall transmit to  
15 the Committee on Oversight and Government Reform of  
16 the House of Representatives and the Committee on  
17 Homeland Security and Governmental Affairs of the Sen-  
18 ate a report summarizing and evaluating the agency plans  
19 or updates (as the case may be) so submitted.

20 (c) COORDINATION.—The Office of Personnel Man-  
21 agement shall, in carrying out subsection (a), evaluate ex-  
22 isting requirements under section 717 of the Civil Rights  
23 Act of 1964 (42 U.S.C. 2000e–16) and section 501 of the  
24 Rehabilitation Act of 1973 (29 U.S.C. 791) and determine  
25 how agency reporting can be performed so as to be con-

- 1 sistent with, but not duplicative of, such sections and any
- 2 other similar requirements.

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