



THE UNIVERSITY OF CHICAGO
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DEMOCRACY REFORM PRIMER SERIES

Reducing the Number of Senate- Confirmed Appointees

A Practical Research Guide

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About the Democracy Reform Primer Series

Narrowing the gap between research and public dialogue, the University of Chicago Center for Effective Government's Democracy Reform Primers responsibly advance conversations and strategy about proposed changes to our political institutions. Each Primer focuses on a particular reform, clarifies its intended purposes, and critically evaluates what the best available research has to say about it. The Primers do not serve as a platform for either authors or the Center to advance their own independent views about the reform; to the contrary, they serve as an objective and authoritative guide about what we actually know—and what we still don't know—about the likely effects of adopting prominent reforms to our political institutions. In some instances, the available evidence may clearly support the claims of a reform's advocates. In other instances, it may cut against them. And in still others, the scholarly literature may be mixed, indeterminate, or altogether silent. Without partisan judgment or ideological pretense, and grounded in objective scholarship, these Primers set the record straight by clarifying what can be said about democracy reforms with confidence and what requires further study. This series is produced with support from Democracy Fund and the Democracy Innovation Fund.

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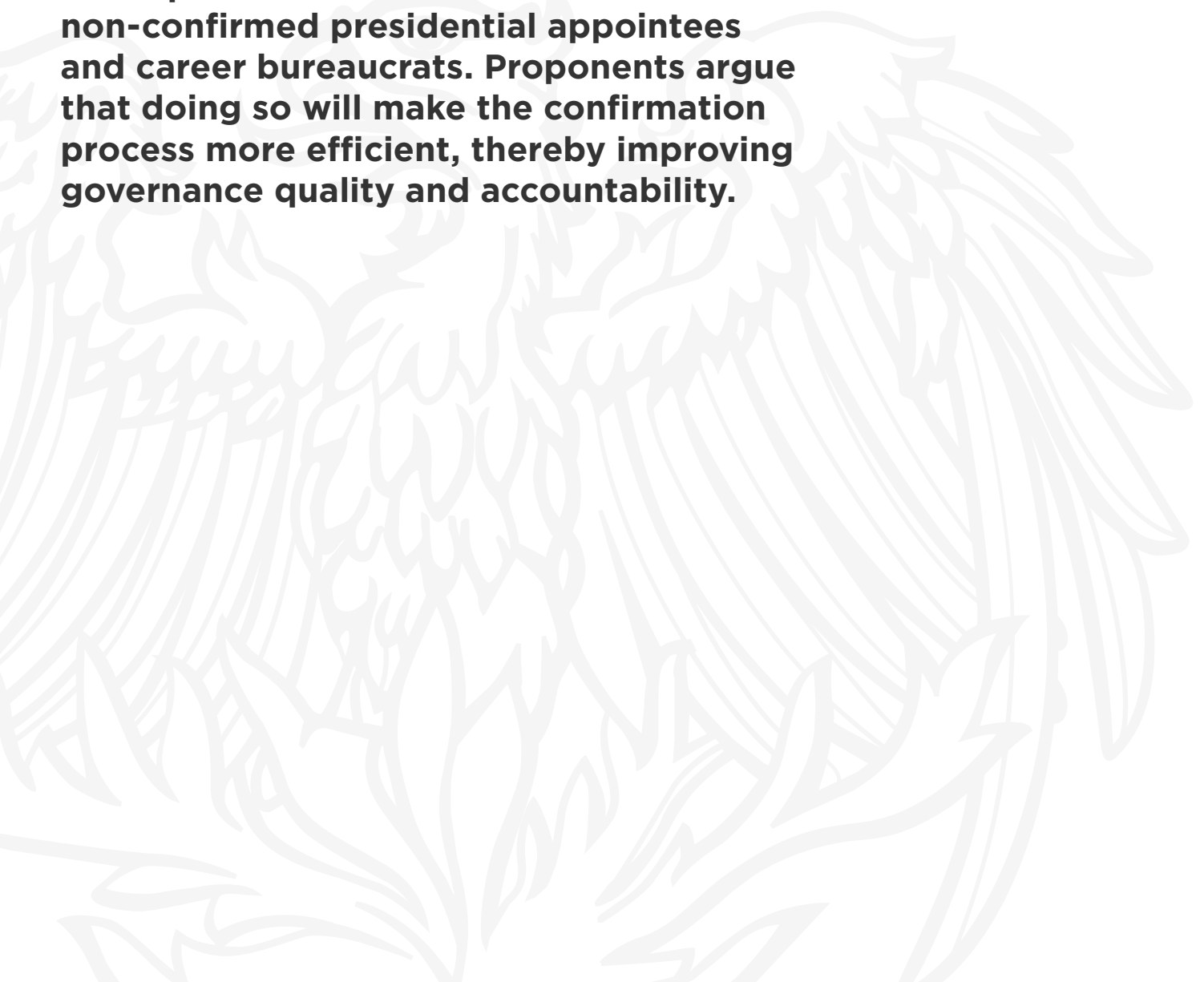


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Summary

Promise of the Reform

The time it takes for the Senate to approve a nominee for a presidential appointment has been growing steadily for decades. These confirmation delays have negative consequences for agency performance and democratic accountability. Reformers advocate reducing the number of positions requiring Senate confirmation, replacing those positions with a combination of non-confirmed presidential appointees and career bureaucrats. Proponents argue that doing so will make the confirmation process more efficient, thereby improving governance quality and accountability.



Key Takeaways from the Research

- The number of presidential appointees has been growing steadily, with presidents responsible for selecting individuals to fill around 4,000 positions. Roughly a third of these require confirmation by the Senate, and Senate confirmation times have been steadily increasing.
- Although the number of such appointees has been growing, agencies with many layers of political appointees generally score lower on performance metrics than agencies with career bureaucrats in leadership positions.
- The average time it takes the Senate to confirm a presidential appointee has nearly doubled between the Reagan and Obama administrations. Causes of delay are primarily political, as Senators face incentives to use the confirmation process to pursue political and policy-related goals.
- As a consequence of confirmation delays, many positions remain unfilled or are filled by interim appointees. These vacancies can have negative consequences including reduced governance quality and undermined channels of democratic accountability.
- Reforms implemented in the early 2010s attempted to address confirmation delays. These changes included reducing the number of Senate-confirmed appointees, streamlining the confirmation process for some positions, and reducing the number of votes necessary to end a filibuster on a confirmation. Despite these efforts, the average time it takes to confirm a presidential nominee has continued to grow.

Important Questions the Research Does Not Answer

Future research should further explore the consequences of a previously-enacted reduction in the number of positions requiring Senate confirmation. Data availability issues and challenges with empirical attribution complicate efforts to understand the direct effects of the reforms. Future work could investigate:

- Were there any remaining Senate-confirmed positions for which average confirmation times decreased after the reform?
- What are the conditions under which a reduction in volume of confirmations informs overall process efficiency?

Beyond the direct effects on processing efficiency, reducing the number of positions requiring Senate confirmation could have several secondary effects. For example:

- Was there any change to the president's use of interim or acting officials as a result of reducing the number of positions requiring Senate confirmation?
- How did the ideology or qualifications of individuals in particular positions change after the requirement of Senate confirmation was removed?

Introduction

Senate confirmation of presidential appointees is a keystone of the U.S. separation of powers system. The president's nomination of individuals to lead bureaucratic agencies, and the Senate's role in reviewing those nominations and approving (or disapproving) of them, comprise an important channel for the shared oversight of the bureaucracy by the elected branches of government.

As Mackenzie writes...

“The contemporary appointments process is slower, more cumbersome, more contentious, more repellent to talented Americans, and more distant from the purposes of good government than it has ever been.”

Over the past several decades, however, the process of appointing and confirming individuals to serve in government has slowed to a crawl. While exact estimates of average delay vary by researcher, reflecting the lack of a standardized dataset and measurement approach for investigating confirmation delays, the scholarly consensus is that confirmation delays have increased considerably.

By one estimate, the average Senate confirmation process took just 56 days during the Reagan administration, but roughly twice as long during the Obama and Trump administrations, at 112 and 117 days, respectively.¹

These delays may have negative consequences for governance quality and democratic accountability. As Mackenzie writes: “The contemporary appointments process is slower, more cumbersome, more contentious, more repellent to talented Americans, and more distant from the purposes of good government than it has ever been.”² To address these issues, reformers propose reducing the number of appointments that require Senate confirmation. Advocates of this proposal argue that reducing the number of such appointees will reduce the overall burden on the system, allowing the remaining appointees to proceed through the process more quickly and efficiently. Affected positions could become non-confirmed appointees, or could be staffed by career bureaucrats. Proponents argue that with careful targeting, the reform could improve government performance while minimizing any negative effect on democratic accountability.

This primer evaluates the existing literature on Senate-confirmed appointees with an eye toward understanding the likely consequences of reducing their number. In particular, the primer covers the potential impact on:

- appointment process timelines
- government performance and appointee qualifications
- democratic accountability.

Introduction

What is a Senate-confirmed appointee?

Overall, there are roughly 4,000 positions in the federal government that are filled by presidential appointees. These include Cabinet Secretaries, Assistant Secretaries, mid-or low-level managerial positions, and members of Boards and Advisory Commissions. Not all of these positions require Senate confirmation; the majority of presidential appointments are made without formal input from Congress.

“Congress determines not only how many appointees the president will be allowed, but also which of those appointees will require Senate confirmation.”

The constitution allows the president to appoint “inferior officers” without Senate approval, while “Officers of the United States” can be appointed only with the “Advice and Consent of the Senate.”³ The definitions of these types of officers, however, is not made explicit. Instead, Congress determines not only how many appointees the president will be allowed, but also which of those appointees will require Senate confirmation. The number of positions requiring Senate confirmation, known as “PAS positions,” has been increasing steadily, growing from 779 in 1960 to 1,237 in 2016.⁴ Advocates of reform argue that many of these positions, particularly the lower-level managerial roles and advisory board roles, could be re-classified to remove the requirement of Senate confirmation, thus reducing overall burden on the Senate and the confirmation process.

Some of the positions would remain presidential appointments, but fall under a different appointment category (i.e., Senior Executive Service, Schedule C). Others would be replaced by career personnel, or otherwise staffed by agencies. While a primary motivation for this reform is improvements to the efficiency of the appointments process, the change would also likely impact governance quality and democratic accountability.

Research on Confirmation Delays

Research on Confirmation Delays

A primary motivation of this reform is improving the efficiency of the appointments process. To understand whether this effort is likely to be successful, it is important to understand the underlying factors associated with increasing nomination and confirmation delays.

Historically, the appointments process was an opportunity for the Senate, with relative deference, to ensure that the president was appointing qualified individuals to important government positions. But this has changed: “in the 1990s the appointments process became not simply a mechanism for staffing... the highest levels of the executive branch. It became as well, often even primarily, a battleground in which unresolved issues of public policy were fought out and the personal vendettas of individual senators were often activated.”⁵ In other words, the process presents an opportunity for Senators to pursue a variety of other political objectives: advancing policy goals, avoiding politically costly decisions, and managing coalitions.

By delaying confirmation, Senators can stymie the president’s ability to pursue his policy goals. As Professors Nolan McCarty and Rose Razaghian explain, delay “precludes the timely implementation of administration policy within the agency. The status quo established by the career servants remains in effect for a longer period. Since presidents remain in office for a relatively short amount of time and most political appointees commit to even less time, delays of several months can have substantial effects on implementation.”⁶ Similarly, delay can prevent the president from politicizing agencies that are ideologically misaligned with him.⁷ That is, if an agency is predisposed to oppose the president, then the Senate will try to resist the president pulling that agency into alignment by nominating like-minded leadership. Partisan disagreement about policy objectives is thus a key element of long confirmation times.

Delay can also be used as a substitute for outright opposition to a nominee. When a Senator is opposed to a nominee but fears electoral consequences for rejecting them, they may prefer to delay confirmation rather than take a visible and potentially unpopular stance.

Research on Confirmation Delays

Presidents through the Reagan administration enjoyed a “presumption of success” from the Senate—that is, Senators would do their due diligence in verifying the qualifications of an individual to a position, but would grant the nominating president considerable deference in offering their approval.⁸ Today’s Senate, however, is much more likely to fail to confirm a president’s nominee. According to one estimate, 16% of nominees were not confirmed under the George H.W. Bush administration. This rose to 21% under Clinton, 25% under George W. Bush, and 30% for Obama.⁹ These high failure rates are predominantly the product of delay: at the end of a session of Congress, any nominations that have not been confirmed are automatically returned to the president. At that point, the president can choose to re-nominate those individuals in the next session, or withdraw the nomination. Failure by delay, rather than by outright downvote, is a tactic that is on the rise.¹⁰

Finally, delay can be used as a tool for legislative coalition management. One paper argues that delaying lower-level nominations can be used as an opportunity to bargain for policy concessions.¹¹ Because lower-level nominations are less visible and less salient to the public, Senators are unlikely to face negative consequences when delaying these nominations. They can thus use delay of the nomination process as a bargaining chip in advancing their policy agenda, even for policy issues unrelated to the mission of the agency in question. While delays in the Senate are certainly a large driver of long confirmation timelines, it is important to remember that the Senate confirmation process begins only after the president has submitted a nominee.

The selection of this nominee can also be a significant source of delay; the vetting and nomination process conducted by the White House can take even longer than the Senate confirmation process. By one estimate, the average number of days it took a president to make a nomination for a given position was 384 under President George W. Bush, 390 under President Obama, and 466 under President Trump.¹² As with the Senate process, presidents themselves face political incentives to delay nomination.

A key element of the president’s choice of nomination timing is that Congress cannot compel the president to provide a nomination; and in fact, in many cases, the president can pursue his policy goals without a formally confirmed appointee. The choice faced by presidents is thus not only who to nominate and when to submit that nomination, but whether to submit a formal nomination at all. Between 1977 and 2015, the percentage of PAS positions without a confirmed appointee fluctuated between 10% and 40%.¹³

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Research on Confirmation Delays

When a position does not have a confirmed appointee, the president can fill the position with a non-confirmed interim appointee, known as an “acting.” The Federal Vacancies Reform Act (FVRA) of 1998 sets guidelines for filling PAS positions with interim appointees, including who can serve in PAS positions in an acting capacity, as well as allowable durations for these acting officials. These officials have generally the same powers as confirmed appointees, and depending on the circumstances can serve nearly indefinitely.¹⁴ Actings therefore present a compelling alternative strategy to presidents seeking to move their policy program forward while avoiding delay or confrontation from the Senate.

In recent years presidents have made liberal use of this strategy, and not always as an interim or stop-gap measure. Between 1996 and 2016, nearly 40% of vacant PAS positions went without any subsequent nominations. That is, the vacancy persisted, and the president never submitted a formal nomination for the role. Moreover, 60% of those vacant positions were filled by actings.¹⁵ Actings are more prevalent in lower-level positions, although presidents have used actings in cabinet positions as well.¹⁶ When choosing to fill a role with an interim appointee, presidents can allow the default acting to serve, which is usually a career civil servant in the agency. Alternatively, the president can select a “strategic” acting—an individual, typically drawn from the pool of potential political appointees, who is potentially more likely to adhere to the president’s vision for the agency’s policy program.¹⁷ The use of actings has emerged as a workaround for Senate confirmation delays and one which is nearly functionally equivalent to the use of non-Senate-confirmed presidential appointees.¹⁸

Evidence from Previous Reforms

Several reforms occurred in the early 2010s that give scholars a useful opportunity to examine likely impacts on efficiency. The Presidential Appointment and Efficiency and Streamlining Act of 2011 (PAESA, enacted in 2012) reduced the number of PAS positions by 163. The Senate also created a streamlined confirmation process for some nominees. Finally, in November 2013 Senate Democrats exercised the “Nuclear Option,” reducing the number of votes required to invoke cloture for executive appointments from 60 to 51. These reforms were intended to improve the efficiency of the process.

Understanding the impact of these reforms is very challenging. One hurdle is separating differences in impact between the three separate reforms, as they occurred in close chronological proximity. Another challenge is separating the effect of reforms from idiosyncratic effects of individual presidents (the reforms were adopted midway through the Obama administration, and much of the existing research is limited to comparing data from the Obama and Trump administrations). Additionally, because these reforms were not adopted randomly—that is, politically-motivated decisions were made about which positions would be affected—researchers are unable to determine with certainty whether any change in the process is attributable to the reform, or to some other cause.

Research on Confirmation Delays

“Nominations subject to the streamlined confirmation process were nonetheless confirmed more slowly than the nominations subject to the regular process.”

Nonetheless, the importance of the confirmation process for governance and for democratic accountability encourages us to try to understand what the likely effects might be. Existing research suggests that reducing the number of PAS positions is unlikely to have the intended effect of improving process efficiency.

Removing the requirement of Senate confirmation was not associated with reduced time to nomination. If presidents are taking extra time vetting potential nominees in anticipation of Senate confirmation battles, we would expect to see faster nomination times for a given position after the requirement of Senate confirmation is removed. This does not appear to be the case. In a study of President Trump’s personnel management, researchers found that Trump was just as slow to select nominees to a given position when it was no longer subject to confirmation as Obama was before the confirmation requirement had been removed, if not slower.¹⁹ However, this finding may reflect idiosyncrasies between the two presidents more than changes to the process.

In addition, average confirmation times have continued to rise, despite previous reforms. Comparing the period before and after filibuster reform, one paper found that confirmation delays increased from an average of 95 days in 2013 to 150 days in 2014. In fact, it was “the biggest jump in any given year in an administration between any two presidents.”²⁰ A piece of related research found that nominations subject to the streamlined confirmation process were nonetheless confirmed more slowly than the nominations subject to the regular process.²¹ This likely reflects the lower priority of the positions that were streamlined, and we do not know what the effects of streamlining some positions were on aggregate timelines or on the confirmation timing of non-streamlined positions.

Research on Confirmation Delays

For the targeted positions, the removal of the Senate confirmation requirement would still have the direct effect of reducing overall process times. However, one paper found that the affected positions were generally not primary targets of delay in the Senate prior to the reform.²² While evidence of the effects of the previous reforms is extremely limited, the lack of a clear improvement in efficiency is suggestive that the reforms did not successfully address the root cause of delay. Whereas reductions in the total number of positions or efforts to streamline the process could address a capacity issue, the issue at hand seems to be more political than capacity-related. Delay serves a political function, and the incentive to delay a given nomination is not diminished (and in fact may be increased) when the number of positions under consideration is reduced. As one researcher explains, “Given that long-term delay is far more likely to occur for partisan considerations rather than for lack of time to deliberate, it is unlikely that providing the Senate more time to consider such nominations would yield faster confirmations.”²³

As Ostrander explains...

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Research on Appointees and Governance Quality

Another consideration in removing the requirement of Senate confirmation is potential changes to governance quality. As discussed in the previous section, one consequence of extended delays in Senate confirmation is the increasing prevalence of interim or acting officials performing the duties of positions awaiting a Senate-confirmed appointee. When a position lacks a confirmed appointee, either because the nomination is facing delays or because the president has elected to install an interim appointee, agency performance can be affected. Empirical work on the effects of vacancies on agency performance is difficult because many of the conditions that might inform delay (e.g., low presidential or Congressional priority) might similarly shape agency performance outcomes. One study investigated self-reported performance scores reported by employees of agencies with PAS agency heads. The study found a clear association between longer vacancies and reduced agency performance.²⁴ One explanation for this finding is that acting leadership may be unwilling to make long-term investments in agency capacity, focusing instead on shorter-term goals they are more likely to be able to achieve. Lacking the mandate to undertake major projects, a careerist acting as an interim appointee is more likely to maintain inherited agency priorities, while a political interim appointee lacks the imprimatur of Senate confirmation and may thus be less convincing to stakeholders, including both career personnel and external actors.

Another paper makes a similar argument, identifying several potential mechanisms for reduced agency performance.²⁵ An acting official does not have the same status as a Senate-confirmed appointee, which may undermine their position when representing the agency's position before Congress or international institutions. Vacancies can also slow agency regulatory performance because absent a confirmed appointee, other staff may be diverted from their other work to perform the functions of the position. In the case where there is an acting appointee, that acting may themselves be a careerist from within the agency, whose other work is thus put on hold. Additionally, agency morale and resources can be affected because both agency personnel and outside actors view an agency lacking confirmed leadership as a lower priority.

“An acting official does not have the same status as a Senate-confirmed appointee, which may undermine their position when representing the agency’s position before Congress or international institutions.”

Research on Appointees and Governance Quality

Reducing the number of positions requiring Senate confirmation could reduce the number of actings, particularly if the reform were targeted to positions that are often vacant. Filling positions more permanently could address some of the drawbacks discussed above. We might expect further improvement in government performance if the PAS position is replaced not with another political appointee, but with a career bureaucrat. Research has shown that, generally speaking, agencies that are headed by career staff score higher on agency performance metrics than do agencies with politically appointed leadership. Similarly, political appointees generally have fewer of the characteristics associated with better agency performance (e.g., direct bureau experience, longer tenure in the position) than do agency careerists.²⁶

Thus, if a PAS position is replaced with a career position, we might expect to see improved agency performance as a result. If, however, the requirement of Senate confirmation is removed but the position remains a presidential appointment, we would not necessarily expect to see an improvement in agency performance. In fact, to the extent that the Senate confirmation process itself serves as a mechanism to enforce a floor on competency, we might expect to see the president appointing less qualified individuals to the positions.

Finally, removing the requirement of Senate confirmation may have secondary effects on the pool of potential nominees. Prolonged delays, coupled with how intrusive, duplicative, and potentially embarrassing the process is, can deter potentially qualified nominees from being willing to enter service. In a survey of civic elites that form a pool of likely nominees (e.g., university leadership, corporate executives, think tank scholars, etc.), respondents reported that, although they would be honored to be selected as a nominee, they viewed the appointments process as “unfair, confusing, and embarrassing.”²⁷ While this survey evidence is suggestive of the possibility of a chilling effect, more direct evidence is needed. It may be the case that qualified individuals who are hesitant to undergo a confirmation battle would be more willing to be considered for an appointment that did not include the requirement of Senate confirmation.

“Respondents reported that, although they would be honored to be selected as a nominee, they viewed the appointment process as ‘unfair, confusing, and embarrassing.’”

Research on Trust, Ideology, and Accountability

A final consideration is what the impact of reducing the number of Senate-confirmed appointees could be on democratic accountability. First, the use of acting officials may erode public trust in governing institutions. Evidence for this pattern is preliminary. One study used a survey experiment to suggest that appointee characteristics associated with competency or patronage could inform public trust in governing institutions.²⁸ It may be that if the public associates non-confirmed appointees with patronage or lower competence, that could affect public perceptions of the agency. A second study investigates whether public opinion serves as a constraint on presidents' use of acting officials.²⁹ If voters perceive acting officials as less legitimate than confirmed ones and punish the president accordingly, then presidents will be more incentivized to submit official nominees. Evidence for this proposition is limited to the context of scandal. While these two studies point to a potential link between appointments and public trust, further research is necessary to understand how these findings relate to the replacement of PAS positions with other, non-confirmed appointees, or with career professionals.

“Individuals selected for PAS positions are more ideologically moderate than are individuals appointed by the president to positions that do not require Senate confirmation.”

Additionally, removing the requirement of Senate confirmation could have consequences for the ideology of individuals holding the affected positions. One study found that individuals selected for PAS positions are more ideologically moderate than individuals appointed by the president to positions that do not require Senate confirmation.³⁰ The paper's authors developed a formal model arguing that the Senate confirmation process serves as a brake on ideological extremism. While further work is needed to firmly establish this causal mechanism, it is certainly plausible that removing the requirement of Senate confirmation from a presidential appointment would result in an ideological shift of those officeholders to more closely reflect presidential preferences at the expense of the Senate.

More generally, there are normative concerns about how influence and control of the bureaucracy should be allocated across the branches of government. These concerns do not point clearly in favor of or against changing the number of PAS positions. On the one hand, long confirmation delays subvert the president's ability to execute the administration's policy agenda; presidents are elected by the voters to enact a certain policy platform, and when they are unable to install their chosen appointees, it undermines their ability to pursue their policy objectives. In this way, “confirmation delays could be understood as undercutting not only presidential influence, but electoral accountability and, in turn, agency legitimacy.”³¹ Reducing the number of PAS positions and replacing them with non-confirmed appointees could thus improve the president's ability to shape bureaucratic policymaking.

Research on Trust, Ideology, and Accountability

From the Senate perspective, to the extent that presidents use acting officials in lieu of making nominations through the Senate confirmation process, the Senate is effectively cut out of its oversight role. As one researcher argues, “Proponents of effective and accountable public administration should want to...discourage end runs around the normal appointments process.”³² If the president is using actings as a strategy to sidestep confirmation, Congress misses that chance to participate in selecting the individuals who will guide policy determinations. Replacing PAS positions with non-confirmed appointees would not mitigate this sidestepping, as neither mechanism involves Senate participation in appointee selection.

On the other hand, replacing PAS positions with career personnel may (perhaps counter-intuitively) restore some balance in oversight of the bureaucracy. This is because careerists with long-term professional investment in an agency may be more deferential to Congressional influence, as well as more effective at performing the tasks and functions assigned to them. Congress can use the same oversight tools they use in other contexts (budget authorization, hearings, etc.) to influence career agency leadership. Political appointees who have not gone through the confirmation process may feel less obliged to defer to this Congressional influence.

“If the president is using actings as a strategy to sidestep confirmation, Congress misses that chance to participate in selecting the individuals who will guide policy determinations.”

Conclusion

The scholarly literature on Senate-confirmed appointments offers several insights to help reformers understand the potential impacts of reducing the number of PAS positions. To the extent that reducing the number of PAS positions would lead to fewer acting appointees, and/or more career bureaucrats in leadership positions, the reform could lead to improvements in government performance. Some mid-level positions may be more effectively executed by career personnel than by political appointees.³³ On the other hand, removing the requirement of Senate confirmation might have the unintended consequence of leading to less ideologically moderate appointees.

“It is doubtful whether reducing the number of PAS positions would itself reduce delays.”

On the question of the efficiency of the confirmation process, the evidence discussed above suggests that delays can be politically motivated, rather than the result of an overburdened system. As such, it is doubtful whether reducing the number of PAS positions would itself reduce delays. We should also be wary of potential unintended consequences. For example, reducing the number of PAS positions, or placing some of those positions into a streamlined process, may increase the bargaining value of the remaining positions under consideration, thus exacerbating delays.³⁴ Political conflicts that are currently contested in nomination battles are unlikely to disappear when a position is removed; rather the conflict will play out in a different venue, perhaps at a greater cost to government performance. As one researcher puts it, “where there is a will to delay, there is a way to delay.”³⁵

Areas for further research

The previous reform efforts present a useful opportunity for researchers to make comparisons within the same position before and after a reform, in order to more clearly understand the effects.

For example:

- Existing research discussed above indicates that overall average confirmation times did not decrease after the reforms. Were there any particular positions for which average confirmation times did decrease? What are the conditions under which a reduction in number of confirmations informs overall process efficiency?
- Was there any change to the president’s use of interim or acting officials as a result of reducing the number of PAS positions?
- How did the ideology or qualifications of individuals in particular positions change after the requirement of Senate confirmation was removed.

The appointments process is critical for both governance quality and democratic accountability. Advocates of reform are justified in seeking pathways to improve the efficiency and accountability of this important process. Further scholarship can help tailor future reform efforts to improve process efficiency while minimizing the likelihood of undesirable secondary effects.

Endnotes

- 1** Partnership for Public Service, “Unconfirmed: Why Reducing the Number Of Senate-Confirmed Positions Can Make Government More Effective,” 2021, <https://presidentialtransition.org/reports-publications/unconfirmed-reducing-number-senate-confirmed-positions/>
- 2** Mackenzie, G. Calvin, ed., *Innocent until Nominated: The Breakdown of the Presidential Appointments Process* (Washington, D.C., Brookings Institution Press, 2001), 46–47
- 3** U.S. Constitution, Article II Section 2
- 4** Partnership for Public Service, *Unconfirmed*, 2021
- 5** Mackenzie, *Innocent until Nominated*, 2001, 26
- 6** McCarty, Nolan, and Rose Razaghian, “Advice and Consent: Senate Responses to Executive Branch Nominations 1885– 1996,” *American Journal of Political Science* 43, no. 4 (October 1999): 1122, <https://doi.org/10.2307/2991820>
- 7** Ostrander, Ian, “The Logic of Collective Inaction: Senatorial Delay in Executive Nominations,” *American Journal of Political Science* 60, no. 4 (October 2016): 1063–76, <https://doi.org/10.1111/ajps.12208>
- 8** Bond, Jon R., Richard Fleisher, and Glen S. Krutz, “Malign Neglect: Evidence That Delay Has Become the Primary Method of Defeating Presidential Appointments,” *Congress & the Presidency* 36, no. 3 (2009): 226–43
- 9** O’Connell, Anne Joseph, “Shortening Agency and Judicial Vacancies through Filibuster Reform? An Examination of Confirmation Rates and Delays from 1981 to 2014,” *SSRN Electronic Journal*, 2015, <https://doi.org/10.2139/ssrn.2607320>
- 10** Bond, Fleisher, and Krutz, “Malign Neglect,” 2009
- 11** Ba, Heather-Leigh Kathryn, Brandon Schneider, and Terry Sullivan, “The Longer You Wait, the Longer It Takes: Presidential Transition Planning and Appointment Politics,” *Congress & the Presidency* 49, no. 1 (2022): 84–115
- 12** Lewis, David E., and Mark D. Richardson, “The Very Best People: President Trump and the Management of Executive Personnel,” *Presidential Studies Quarterly* 51, no. 1 (2021): 51–70
- 13** Kinane, Christina M., “Control without Confirmation: The Politics of Vacancies in Presidential Appointments,” *American Political Science Review* 115, no. 2 (2021): 599–614

O’Connell, Anne Joseph, “Actings,” *Columbia Law Review* 120 (2020): 613–728
- 14** Kinane, “Control without Confirmation,” 2021
- 15** Kinane, “Control without Confirmation,” 2021
- 16** O’Connell, “Actings,” 2020
- 17** Piper, Christopher, “Presidential Strategy amidst the ‘Broken’ Appointments Process,” *Presidential Studies Quarterly* 52, no. 4 (December 2022): 843–74, <https://doi.org/10.1111/psq.12804>
- 18** O’Connell, “Actings,” 2020
- 19** Lewis and Richardson, “The Very Best People,” 2021
- 20** O’Connell, Anne Joseph, “Staffing Federal Agencies: Lessons from 1981–2016 | Brookings,” 2017

Endnotes

- 21** Ostrander, Ian, “The Politics of Executive Nominations in the Post-Nuclear Senate,” *Congress & the Presidency* 44, no. 3 (September 2, 2017): 323–43, <https://doi.org/10.1080/07343469.2017.1354943>
- 22** Ostrander, “Politics,” 2017
- 23** Ostrander, “Politics,” 2017.
- 24** Piper, Christopher, and David E. Lewis, “Do Vacancies Hurt Federal Agency Performance?,” *Journal of Public Administration Research and Theory* 33, no. 2 (March 29, 2023): 313–28, <https://doi.org/10.1093/jopart/muac029>
- 25** Mendelson, Nina A., “The Uncertain Effects of Senate Confirmation Delays in the Agencies,” *Duke Law Journal* 64 (2015): 1571
- 26** Lewis, David E., “Testing Pendleton’s Premise: Do Political Appointees Make Worse Bureaucrats?,” *The Journal of Politics* 69, no. 4 (November 2007): 1073–88, <https://doi.org/10.1111/j.1468-2508.2007.00608.x>
- 27** Light, Paul C., and Virginia L. Thomas, “Posts of Honor: How America’s Corporate and Civic Leaders View Presidential Appointments,” 2001
- 28** Hollibaugh, Gary E., “Presidential Appointments and Public Trust,” *Presidential Studies Quarterly* 46, no. 3 (2016): 618–39
- 29** Miller, David R., and Chris Piper, “Acting(s) without Consequence: The (Lack of) Public Costs for Vacancies and Acting Officials,” *Presidential Studies Quarterly* 54, no. 2 (June 2024): 144–61, <https://doi.org/10.1111/psq.12874>
- 30** Bonica, Adam, Chen Jowei, and Johnson Tim, “Senate Gate-Keeping, Presidential Staffing of ‘Inferior Offices,’ and the Ideological Composition of Appointments to the Public Bureaucracy,” *Quarterly Journal of Political Science* 10, no. 1 (2015): 5–40, <https://doi.org/10.1561/100.00012085>
- 31** Mendelson, “Uncertain Effects,” 2015
- 32** O’Connell, “Actings,” 2020
- 33** Mendelson, “Uncertain Effects,” 2015
- 34** Light, Paul C., “Back to the Future on Presidential Appointments,” *Duke Law Journal* 64 (2015): 1499
- 35** Ostrander, “Politics,” 2017



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