

Subject: Confirmation Requirements for Federal Office Holders**Text:**

“Certain Officers of the United States are subject to unique appointment, tenure, and dismissal procedures.

“These positions include: Director National Intelligence, Director of the Central Intelligence Agency, Director of the Federal Bureau of Investigation, Director of the Census, Commissioner of Internal Revenue, Chair of the Federal Reserve, Chair of the Federal Elections Commission, Chair of the Federal Communications Commission, and Chair of the Securities and Exchange Commission (or their functional equivalents if differently titled), as well as all other executive branch officials so designated by Congress by means of two-thirds majorities in both houses.

“These officials shall be appointed by the President and confirmed with the advice and consent of the Senate if they acquire, upon nomination by the President, support from a majority of Senators from the party holding the largest number of seats in the Senate and a majority of Senators from the party holding the second largest number of seats in the Senate.

“These officials can be dismissed by the President only if a majority of Senators from the party holding the largest number of seats in the Senate and a majority of Senators from the party holding the second largest number of seats in the Senate concur.

“These officials shall otherwise serve a term of ten years, unless they die in office, resign, or are impeached by the House of Representatives and convicted by the Senate.

All other Officers of the United States shall be nominated, be confirmed, enjoy tenure, and be dismissed as provided for by law.”

Reform Category(ies):

- ☐ Anti-Corruption, Transparency, Accountability
- ☒ Counter-Majoritarian Requirements
- ☐ Democratic Processes
- ☐ Enhanced Rights/Protections
- ☐ Limits to Political Power/Immunities

- ☐ Necessary Clarifications
- ☐ Responsible Government
- ☒ Separation of Powers/Check and balances

Branch(es) targeted:

☒ Legislative ☒ Executive ☐ Judicial

Justification:

In our hyper-partisan era, Congress is no longer a consistent check on the executive branch. It is an enabler of Presidential power when controlled by the President's party and otherwise an implacable foe. The norms of responsible, democratic governance we assumed would prevent executive branch overreach cannot be counted upon.

What is needed is to institutionalize counter-majoritarian checks on certain powerful functions of the executive branch, including the power to oversee elections, the census, tax audits, the central bank, communications regulation, intelligence, and domestic investigations.

Our amendment's requirement that these officials enjoy support from the two major parties (not just super-majorities, which could still be single-party) insulates them from partisan politics and limits the temptation of any President to employ such institutional powers against political enemies.

Alternatives to Amendment? A different model might look like the appointment of the FEC chair, where commissioners rotate as chair for one-year terms, there are limits on the number of commissioners from each party, and there are super-majority voting requirements. It is worth noting, however, that the current FEC is a complete partisan shambles and institutional failure.