

118TH CONGRESS
1ST SESSION

S. 885

To establish a Civilian Cybersecurity Reserve in the Department of Homeland Security as a pilot project to address the cybersecurity needs of the United States with respect to national security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2023

Ms. ROSEN (for herself and Mrs. BLACKBURN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish a Civilian Cybersecurity Reserve in the Department of Homeland Security as a pilot project to address the cybersecurity needs of the United States with respect to national security, and for other purposes.

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 “Department of Home-
5 land Security Civilian Cybersecurity Reserve Act”.

6 **SEC. 2. CIVILIAN CYBERSECURITY RESERVE PILOT**
7 **PROJECT.**

8 (a) **DEFINITIONS.**—In this section:

1 (1) AGENCY.—The term “Agency” means the
2 Cybersecurity and Infrastructure Security Agency.

3 (2) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means—

6 (A) the Committee on Homeland Security
7 and Governmental Affairs of the Senate;

8 (B) the Committee on Appropriations of
9 the Senate;

10 (C) the Committee on Homeland Security
11 of the House of Representatives;

12 (D) the Committee on Oversight and Ac-
13 countability of the House of Representatives;
14 and

15 (E) the Committee on Appropriations of
16 the House of Representatives.

17 (3) COMPETITIVE SERVICE.—The term “com-
18 petitive service” has the meaning given the term in
19 section 2102 of title 5, United States Code.

20 (4) DIRECTOR.—The term “Director” means
21 the Director of the Agency.

22 (5) EXCEPTED SERVICE.—The term “excepted
23 service” has the meaning given the term in section
24 2103 of title 5, United States Code.

1 (6) SIGNIFICANT INCIDENT.—The term “sig-
2 nificant incident”—

3 (A) means an incident or a group of re-
4 lated incidents that results, or is likely to re-
5 sult, in demonstrable harm to—

6 (i) the national security interests, for-
7 eign relations, or economy of the United
8 States; or

9 (ii) the public confidence, civil lib-
10 erties, or public health and safety of the
11 people of the United States; and

12 (B) does not include an incident or a por-
13 tion of a group of related incidents that occurs
14 on—

15 (i) a national security system, as de-
16 fined in section 3552 of title 44, United
17 States Code; or

18 (ii) an information system described
19 in paragraph (2) or (3) of section 3553(e)
20 of title 44, United States Code.

21 (7) TEMPORARY POSITION.—The term “tem-
22 porary position” means a position in the competitive
23 or excepted service for a period of 6 months or less.

1 (8) UNIFORMED SERVICES.—The term “uni-
2 formed services” has the meaning given the term in
3 section 2101 of title 5, United States Code.

4 (b) PILOT PROJECT.—

5 (1) IN GENERAL.—The Director may carry out
6 a pilot project to establish a Civilian Cybersecurity
7 Reserve at the Agency.

8 (2) PURPOSE.—The purpose of a Civilian Cy-
9 bersecurity Reserve is to enable the Agency to effec-
10 tively respond to significant incidents.

11 (3) ALTERNATIVE METHODS.—Consistent with
12 section 4703 of title 5, United States Code, in car-
13 rying out a pilot project authorized under paragraph
14 (1), the Director may, without further authorization
15 from the Office of Personnel Management, provide
16 for alternative methods of—

17 (A) establishing qualifications require-
18 ments for, recruitment of, and appointment to
19 positions; and

20 (B) classifying positions.

21 (4) APPOINTMENTS.—Under the pilot project
22 authorized under paragraph (1), upon occurrence of
23 a significant incident, the Director—

24 (A) may activate members of the Civilian
25 Cybersecurity Reserve by—

1 (i) noncompetitively appointing mem-
2 bers of the Civilian Cybersecurity Reserve
3 to temporary positions in the competitive
4 service; or

5 (ii) appointing members of the Civil-
6 ian Cybersecurity Reserve to temporary po-
7 sitions in the excepted service;

8 (B) shall notify Congress whenever a mem-
9 ber is activated under subparagraph (A); and

10 (C) may appoint not more than 30 mem-
11 bers to the Civilian Cybersecurity Reserve
12 under subparagraph (A) at any time.

13 (5) STATUS AS EMPLOYEES.—An individual ap-
14 pointed under subsection (b)(4) shall be considered
15 a Federal civil service employee under section 2105
16 of title 5, United States Code.

17 (6) ADDITIONAL EMPLOYEES.—Individuals ap-
18 pointed under subsection (b)(4) shall be in addition
19 to any employees of the Agency who provide cyberse-
20 curity services.

21 (7) EMPLOYMENT PROTECTIONS.—The Sec-
22 retary of Labor shall prescribe such regulations as
23 necessary to ensure the reemployment, continuation
24 of benefits, and non-discrimination in reemployment
25 of individuals appointed under subsection (b)(4),

1 provided that such regulations shall include, at a
2 minimum, those rights and obligations set forth
3 under chapter 43 of title 38, United States Code.

4 (8) STATUS IN RESERVE.—During the period
5 beginning on the date on which an individual is re-
6 cruited by the Agency to serve in the Civilian Cyber-
7 security Reserve and ending on the date on which
8 the individual is appointed under subsection (b)(4),
9 and during any period in between any such appoint-
10 ments, the individual shall not be considered a Fed-
11 eral employee.

12 (c) ELIGIBILITY; APPLICATION AND SELECTION.—

13 (1) IN GENERAL.—Under the pilot project au-
14 thorized under subsection (b), the Director shall es-
15 tablish criteria for—

16 (A) individuals to be eligible for the Civil-
17 ian Cybersecurity Reserve; and

18 (B) the application and selection processes
19 for the Civilian Cybersecurity Reserve.

20 (2) REQUIREMENTS FOR INDIVIDUALS.—The
21 criteria established under paragraph (1)(A) with re-
22 spect to an individual shall include—

23 (A) previous employment—

24 (i) by the executive branch;

25 (ii) within the uniformed services;

1 (iii) as a Federal contractor within
2 the executive branch; or

3 (iv) by a State, local, Tribal, or terri-
4 torial government;

5 (B) if the individual has previously served
6 as a member of the Civilian Cybersecurity Re-
7 serve of the Agency, that the previous appoint-
8 ment ended not less than 60 days before the in-
9 dividual may be appointed for a subsequent
10 temporary position in the Civilian Cybersecurity
11 Reserve of the Agency; and

12 (C) cybersecurity expertise.

13 (3) PRESCREENING.—The Agency shall—

14 (A) conduct a prescreening of each indi-
15 vidual prior to appointment under subsection
16 (b)(4) for any topic or product that would cre-
17 ate a conflict of interest; and

18 (B) require each individual appointed
19 under subsection (b)(4) to notify the Agency if
20 a potential conflict of interest arises during the
21 appointment.

22 (4) AGREEMENT REQUIRED.—An individual
23 may become a member of the Civilian Cybersecurity
24 Reserve only if the individual enters into an agree-
25 ment with the Director to become such a member,

1 which shall set forth the rights and obligations of
2 the individual and the Agency.

3 (5) EXCEPTION FOR CONTINUING MILITARY
4 SERVICE COMMITMENTS.—A member of the Selected
5 Reserve under section 10143 of title 10, United
6 States Code, may not be a member of the Civilian
7 Cybersecurity Reserve.

8 (6) PRIORITY.—In appointing individuals to the
9 Civilian Cybersecurity Reserve, the Agency shall
10 prioritize the appointment of individuals described in
11 clause (i) or (ii) of paragraph (2)(A) before consid-
12 ering individuals described in clause (iii) or (iv) of
13 paragraph (2)(A).

14 (7) PROHIBITION.—Any individual who is an
15 employee of the executive branch may not be re-
16 cruited or appointed to serve in the Civilian Cyberse-
17 curity Reserve.

18 (d) SECURITY CLEARANCES.—

19 (1) IN GENERAL.—The Director shall ensure
20 that all members of the Civilian Cybersecurity Re-
21 serve undergo the appropriate personnel vetting and
22 adjudication commensurate with the duties of the
23 position, including a determination of eligibility for
24 access to classified information where a security

1 clearance is necessary, according to applicable policy
2 and authorities.

3 (2) COST OF SPONSORING CLEARANCES.—If a
4 member of the Civilian Cybersecurity Reserve re-
5 quires a security clearance in order to carry out
6 their duties, the Agency shall be responsible for the
7 cost of sponsoring the security clearance of a mem-
8 ber of the Civilian Cybersecurity Reserve.

9 (e) STUDY AND IMPLEMENTATION PLAN.—

10 (1) STUDY.—Not later than 60 days after the
11 date of enactment of this Act, the Agency shall
12 begin a study on the design and implementation of
13 the pilot project authorized under subsection (b)(1)
14 at the Agency, including—

15 (A) compensation and benefits for mem-
16 bers of the Civilian Cybersecurity Reserve;

17 (B) activities that members may undertake
18 as part of their duties;

19 (C) methods for identifying and recruiting
20 members, including alternatives to traditional
21 qualifications requirements;

22 (D) methods for preventing conflicts of in-
23 terest or other ethical concerns as a result of
24 participation in the pilot project and details of

1 mitigation efforts to address any conflict of in-
2 terest concerns;

3 (E) resources, including additional fund-
4 ing, needed to carry out the pilot project;

5 (F) possible penalties for individuals who
6 do not respond to activation when called, in ac-
7 cordance with the rights and procedures set
8 forth under title 5, Code of Federal Regula-
9 tions; and

10 (G) processes and requirements for train-
11 ing and onboarding members.

12 (2) IMPLEMENTATION PLAN.—Not later than 1
13 year after beginning the study required under para-
14 graph (1), the Agency shall—

15 (A) submit to the appropriate congres-
16 sional committees an implementation plan for
17 the pilot project authorized under subsection
18 (b)(1); and

19 (B) provide to the appropriate congres-
20 sional committees a briefing on the implementa-
21 tion plan.

22 (3) PROHIBITION.—The Agency may not take
23 any action to begin implementation of the pilot
24 project authorized under subsection (b)(1) until the

1 Agency fulfills the requirements under paragraph
2 (2).

3 (f) PROJECT GUIDANCE.—Not later than 2 years
4 after the date of enactment of this Act, the Director shall,
5 in consultation with the Office of Personnel Management
6 and the Office of Government Ethics, issue guidance es-
7 tablishing and implementing the pilot project authorized
8 under subsection (b)(1) at the Agency.

9 (g) BRIEFINGS AND REPORT.—

10 (1) BRIEFINGS.—Not later than 1 year after
11 the date on which the Director issues the guidance
12 required under subsection (f), and every year there-
13 after, the Agency shall provide to the appropriate
14 congressional committees a briefing on activities car-
15 ried out under the pilot project of the Agency, in-
16 cluding—

17 (A) participation in the Civilian Cybersecu-
18 rity Reserve, including the number of partici-
19 pants, the diversity of participants, and any
20 barriers to recruitment or retention of mem-
21 bers;

22 (B) an evaluation of the ethical require-
23 ments of the pilot project;

24 (C) whether the Civilian Cybersecurity Re-
25 serve has been effective in providing additional

1 capacity to the Agency during significant inci-
2 dents; and

3 (D) an evaluation of the eligibility require-
4 ments for the pilot project.

5 (2) REPORT.—Not earlier than 6 months and
6 not later than 3 months before the date on which
7 the pilot project of the Agency terminates under
8 subsection (i), the Agency shall submit to the appro-
9 priate congressional committees a report and provide
10 a briefing on recommendations relating to the pilot
11 project, including recommendations for—

12 (A) whether the pilot project should be
13 modified, extended in duration, or established
14 as a permanent program, and if so, an appro-
15 priate scope for the program;

16 (B) how to attract participants, ensure a
17 diversity of participants, and address any bar-
18 riers to recruitment or retention of members of
19 the Civilian Cybersecurity Reserve;

20 (C) the ethical requirements of the pilot
21 project and the effectiveness of mitigation ef-
22 forts to address any conflict of interest con-
23 cerns; and

24 (D) an evaluation of the eligibility require-
25 ments for the pilot project.

1 (h) EVALUATION.—Not later than 3 years after the
2 pilot project authorized under subsection (b) is established
3 in the Agency, the Comptroller General of the United
4 States shall—

5 (1) conduct a study evaluating the pilot project
6 at the Agency; and

7 (2) submit to Congress—

8 (A) a report on the results of the study;
9 and

10 (B) a recommendation with respect to
11 whether the pilot project should be modified,
12 extended in duration, or established as a per-
13 manent program.

14 (i) SUNSET.—The pilot project authorized under this
15 section shall terminate on the date that is 4 years after
16 the date on which the pilot project is established.

17 (j) NO ADDITIONAL FUNDS.—

18 (1) IN GENERAL.—No additional funds are au-
19 thorized to be appropriated for the purpose of car-
20 rying out this Act.

21 (2) EXISTING AUTHORIZED AMOUNTS.—Funds
22 to carry out this Act may, as provided in advance in
23 appropriations Acts, only come from amounts au-
24 thorized to be appropriated to the Agency.

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