

Calendar No. 556

117TH CONGRESS
2^D SESSION

S. 1330

[Report No. 117-204]

To facilitate the reskilling of Federal employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2021

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

NOVEMBER 17, 2022

Reported by Mr. PETERS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To facilitate the reskilling of Federal employees, 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 “Facilitating Federal
5 Employee Reskilling Act”.

1 **SEC. 2. RESKILLING FEDERAL EMPLOYEES.**

2 (a) DEFINITIONS.—In this section:

3 (1) AGENCY.—The term “agency” has the
4 meaning given the term “Executive agency” in sec-
5 tion 105 of title 5, United States Code.

6 (2) APPROPRIATE COMMITTEES OF CON-
7 GRESS.—The term “appropriate committees of Con-
8 gress” means—

9 (A) the Committee on Homeland Security
10 and Governmental Affairs of the Senate; and

11 (B) the Committee on Oversight and Re-
12 form of the House of Representatives.

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

16 (4) DIRECTOR.—The term “Director” means
17 the Director of the Office of Personnel Management.

18 (5) EMPLOYEE.—The term “employee” means
19 an employee serving in a position in the competitive
20 service or the excepted service.

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

24 (7) FEDERAL RESKILLING PROGRAM.—The
25 term “Federal reskilling program” means, with re-
26 spect to an employee, a program established by the

1 head of the agency employing the employee (or the
2 Director) to provide the employee with the technical
3 skill or expertise that would qualify the employee to
4 serve in a different position in the competitive serv-
5 ice or the excepted service that requires such tech-
6 nical skill or expertise.

7 (b) REQUIREMENTS.—With respect to a Federal
8 reskilling program established by the head of an agency
9 or the Director before, on, or after the date of enactment
10 of this Act, the agency head or the Director, as applicable,
11 shall ensure that the program—

12 (1) is implemented in a manner that is con-
13 sistent with the merit system principles under sec-
14 tion 2301 of title 5, United States Code, including
15 by using merit-based selection procedures for—

16 (A) participation by employees in the pro-
17 gram; and

18 (B) determining the placement of employ-
19 ees upon completion of the program;

20 (2) includes appropriate limitations or restric-
21 tions associated with implementing the program,
22 which shall be consistent with any regulations pre-
23 scribed by the Director under subsection (c);

24 (3) provides that any new position to which an
25 employee who participates in the program is trans-

1 ferred will utilize the technical skill or expertise that
2 the employee acquired by participating in the pro-
3 gram;

4 (4) includes the option for an employee partici-
5 pating in the program to return to the original posi-
6 tion of the employee, or a similar position, particu-
7 larly if the employee is unsuccessful in the position
8 to which the employee transfers after completing the
9 program;

10 (5) provides that, notwithstanding any provision
11 of chapter 51 of title 5, United States Code, or any
12 rule issued under that chapter, an employee who
13 successfully completes the program and transfers to
14 a different position in the competitive service or the
15 excepted service that requires the technical skill or
16 expertise provided through the program shall serve
17 in the position to which the employee transfers at a
18 class or grade that is not lower than the class or
19 grade of the position from which the employee trans-
20 ferred; and

21 (6) provides that an employee serving in a posi-
22 tion in the excepted service may not transfer to a
23 position in the competitive service solely by reason of
24 the completion of the program by the employee.

1 (c) REPORTING.—Not later than 1 year after the date
2 of enactment of this Act, and annually thereafter for 5
3 years, the Director, in coordination with the head of each
4 agency that has established a Federal reskilling program,
5 shall submit to the appropriate committees of Congress
6 a report regarding the outcomes under the Federal
7 reskilling programs for the year covered by the report,
8 which shall include—

9 (1) a summary of each Federal reskilling pro-
10 gram;

11 (2) the number of, and demographics with re-
12 spect to, employees who have participated in each
13 Federal reskilling program;

14 (3) the number of, and demographics with re-
15 spect to, employees who have completed each Fed-
16 eral reskilling program;

17 (4) the number of, and demographics with re-
18 spect to, employees who have successfully trans-
19 ferred to a different position in the competitive serv-
20 ice or the excepted service that requires the technical
21 skill or expertise provided to the employees through
22 a Federal reskilling program;

23 (5) an analysis of the effectiveness, costs, and
24 benefits of each Federal reskilling program; and

1 (6) any other measure or outcome that the Di-
2 rector determines to be relevant.

3 (d) **SUBSEQUENT PERIODIC EVALUATION.**—After
4 the submission of the final report required under sub-
5 section (c), the head of each agency that has established,
6 or that establishes, a Federal reskilling program shall, on
7 a periodic basis—

8 (1) perform an evaluation of the effectiveness,
9 costs, and benefits of the program; and

10 (2) make any necessary modifications to the
11 program in order to accomplish the goals of the pro-
12 gram.

13 (e) **REGULATIONS.**—The Director may prescribe reg-
14 ulations, as the Director determines necessary, to provide
15 for requirements with respect to, and the implementation
16 of, Federal reskilling programs.

17 **SECTION 1. SHORT TITLE.**

18 *This Act may be cited as the “Facilitating Federal*
19 *Employee Reskilling Act”.*

20 **SEC. 2. RESKILLING FEDERAL EMPLOYEES.**

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

22 (1) **AGENCY.**—*The term “agency” has the mean-*
23 *ing given the term “Executive agency” in section 105*
24 *of title 5, United States Code.*

1 (2) *APPROPRIATE COMMITTEES OF CONGRESS.*—
2 The term “appropriate committees of Congress”
3 means—

4 (A) *the Committee on Homeland Security*
5 *and Governmental Affairs of the Senate; and*

6 (B) *the Committee on Oversight and Reform*
7 *of the House of Representatives.*

8 (3) *COMPETITIVE SERVICE.*—The term “competi-
9 tive service” has the meaning given the term in sec-
10 tion 2102 of title 5, United States Code.

11 (4) *DIRECTOR.*—The term “Director” means the
12 Director of the Office of Personnel Management.

13 (5) *EMPLOYEE.*—The term “employee” means an
14 employee serving in a position in the competitive
15 service or the excepted service.

16 (6) *EXCEPTED SERVICE.*—The term “excepted
17 service” has the meaning given the term in section
18 2103 of title 5, United States Code.

19 (7) *FEDERAL RESKILLING PROGRAM.*—The term
20 “Federal reskilling program” means a program estab-
21 lished by the head of an agency or the Director to
22 provide employees with the technical skill or expertise
23 that would qualify the employees to serve in a dif-
24 ferent position in the competitive service or the ex-

1 *cepted service that requires such technical skill or ex-*
2 *pertise.*

3 *(b) REQUIREMENTS.—With respect to a Federal*
4 *reskilling program established by the head of an agency or*
5 *by the Director before, on, or after the date of enactment*
6 *of this Act, the agency head or the Director, as applicable,*
7 *shall ensure that the Federal reskilling program—*

8 *(1) is implemented in a manner that is in ac-*
9 *cordance with the bar on prohibited personnel prac-*
10 *tices under section 2302 of title 5, United States*
11 *Code, and consistent with the merit system principles*
12 *under section 2301 of title 5, United States Code, in-*
13 *cluding by using merit-based selection procedures for*
14 *participation by employees in the Federal reskilling*
15 *program;*

16 *(2) includes appropriate limitations or restric-*
17 *tions associated with implementing the Federal*
18 *reskilling program, which shall be consistent with any*
19 *regulations prescribed by the Director under sub-*
20 *section (e);*

21 *(3) provides that any new position to which an*
22 *employee who participates in the Federal reskilling*
23 *program is transferred will utilize the technical skill*
24 *or expertise that the employee acquired by partici-*
25 *parting in the Federal reskilling program;*

1 (4) includes the option for an employee partici-
2 pating in the Federal reskilling program to return to
3 the original position of the employee, or a similar po-
4 sition, particularly if the employee is unsuccessful in
5 the position to which the employee transfers after
6 completing the Federal reskilling program;

7 (5) provides that an employee who successfully
8 completes the Federal reskilling program and trans-
9 fers to a position that requires the technical skill or
10 expertise provided through the Federal reskilling pro-
11 gram shall be entitled to have the grade of the posi-
12 tion held immediately before the transfer in a manner
13 in accordance with section 5362 of title 5, United
14 States Code;

15 (6) provides that an employee serving in a posi-
16 tion in the excepted service may not transfer to a po-
17 sition in the competitive service solely by reason of
18 the completion of the Federal reskilling program by
19 the employee; and

20 (7) includes a mechanism to track outcomes of
21 the Federal reskilling program in accordance with the
22 metrics established under subsection (c).

23 (c) *REPORTING AND METRICS.*—Not later than 1 year
24 after the date of enactment of this Act, the Director shall
25 establish reporting requirements for, and standardized

1 *metrics and procedures for agencies to track outcomes of,*
2 *Federal reskilling programs, which shall include, with re-*
3 *spect to each Federal reskilling program—*

4 (1) *providing a summary of the Federal*
5 *reskilling program;*

6 (2) *collecting and reporting demographic and*
7 *employment data with respect to employees who have*
8 *applied for, participated in, or completed the Federal*
9 *reskilling program;*

10 (3) *attrition of employees who have completed*
11 *the Federal reskilling program; and*

12 (4) *any other measures or outcomes that the Di-*
13 *rector determines to be relevant.*

14 (d) *GAO REPORT.—Not later than 3 years after the*
15 *date of enactment of this Act, the Comptroller General of*
16 *the United States shall conduct a comprehensive study of,*
17 *and submit to Congress a report on, Federal reskilling pro-*
18 *grams that includes—*

19 (1) *a summary of each Federal reskilling pro-*
20 *gram and methods by which each Federal reskilling*
21 *program recruits, selects, and retrain employees;*

22 (2) *an analysis of the accessibility of each Fed-*
23 *eral reskilling program for a diverse set of candidates;*

24 (3) *an evaluation of the effectiveness, costs, and*
25 *benefits of the Federal reskilling programs; and*

1 (4) *recommendations to improve Federal*
2 *reskilling programs to accomplish the goal of*
3 *reskilling the Federal workforce.*

4 (e) *REGULATIONS.—The Director—*

5 (1) *not later than 1 year after the date of enact-*
6 *ment of this Act, shall prescribe regulations for the re-*
7 *porting requirements and metrics and procedures*
8 *under subsection (c);*

9 (2) *may prescribe additional regulations, as the*
10 *Director determines necessary, to provide for require-*
11 *ments with respect to, and the implementation of,*
12 *Federal reskilling programs; and*

13 (3) *with respect to any regulation prescribed*
14 *under this subsection, shall brief the appropriate com-*
15 *mittees of Congress with respect to the regulation not*
16 *later than 30 days before the date on which the final*
17 *version of the regulation is published.*

18 (f) *RULE OF CONSTRUCTION.—Nothing in this section*
19 *may be construed to require the head of an agency or the*
20 *Director to establish a Federal reskilling program.*

21 (g) *USE OF FUNDS.—Any Federal reskilling program*
22 *established by the head of an agency or the Director shall*
23 *be carried out using amounts otherwise made available to*
24 *that agency head or the Director, as applicable.*

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