

Calendar No. 348117TH CONGRESS
2^D SESSION**S. 1324****[Report No. 117–97]**

To establish a Civilian Cyber Security Reserve as a pilot project to address the cyber security needs of the United States with respect to national security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2021

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

APRIL 27, 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 establish a Civilian Cyber Security Reserve as a pilot project to address the cyber security 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Civilian Cyber Security
3 Reserve Act”.

4 **SEC. 2. CIVILIAN CYBER SECURITY RESERVE PILOT**
5 **PROJECT.**

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

7 (1) **APPROPRIATE AGENCY HEAD.**—The term
8 “appropriate agency head” means—

9 (A) in the case of the Department of
10 Homeland Security, the Secretary of Homeland
11 Security; and

12 (B) in the case of the Department of De-
13 fense, the Secretary of Defense.

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

17 (3) **COVERED AGENCY.**—The term “covered
18 agency” means the Department of Homeland Secu-
19 rity or the Department of Defense.

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

23 (5) **TEMPORARY.**—The term “temporary”
24 means a period of not more than 6 months.

1 (6) 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.—Each appropriate agency
 6 head may carry out a pilot project to establish a Ci-
 7 vilian Cyber Security Reserve at the covered agency
 8 to address the cyber security needs of the United
 9 States with respect to national security.

10 (2) APPOINTMENTS.—Under a pilot project au-
 11 thorized under paragraph (1), the appropriate agen-
 12 cy head may noncompetitively appoint members of
 13 the Civilian Cyber Security Reserve to temporary po-
 14 sitions in the competitive or excepted service.

15 (3) STATUS AS EMPLOYEES.—An individual ap-
 16 pointed under paragraph (2) shall be considered a
 17 Federal civil service employee under section 2105 of
 18 title 5, United States Code.

19 (4) ADDITIONAL EMPLOYEES.—Individuals ap-
 20 pointed under paragraph (2) shall be in addition to
 21 any employees of the covered agency who provide
 22 cyber security services.

23 (5) EMPLOYMENT PROTECTIONS.—The Sec-
 24 retary of Labor shall prescribe such regulations as
 25 necessary to ensure the reemployment, continuation

1 of benefits, and non-discrimination in reemployment
 2 of individuals appointed under paragraph (2), pro-
 3 vided that such regulations shall include, at a min-
 4 imum, those rights and obligations set forth under
 5 chapter 43 of title 38, United States Code.

6 ~~(c) ELIGIBILITY; APPLICATION AND SELECTION.—~~

7 ~~(1) IN GENERAL.—~~Under a pilot project au-
 8 thorized under subsection (b), the appropriate agen-
 9 cy head shall establish criteria for—

10 ~~(A)~~ individuals to be eligible for the Civil-
 11 ian Cyber Security Reserve in the covered agen-
 12 cy; and

13 ~~(B)~~ the application and selection processes
 14 for the Reserve.

15 ~~(2) REQUIREMENTS FOR INDIVIDUALS.—~~The
 16 criteria established under paragraph (1)(A) with re-
 17 spect to an individual shall include—

18 ~~(A)~~ previous employment by the Federal
 19 Government or within the uniformed services;
 20 and

21 ~~(B)~~ cyber security expertise.

22 ~~(3) AGREEMENT REQUIRED.—~~An individual
 23 may become a member of the Civilian Cyber Secu-
 24 rity Reserve only if the individual enters into an
 25 agreement with the appropriate agency head to be-

1 come such a member, which shall set forth the rights
 2 and obligations of the individual and the covered
 3 agency.

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

9 (d) COMPONENTS OF THE CIVILIAN CYBER SECU-
 10 RITY RESERVE.—The appropriate agency head may con-
 11 sider, in carrying out a pilot project authorized under sub-
 12 section (b), developing different components of the Civilian
 13 Cyber Security Reserve in the covered agency, one with
 14 an obligation to respond when called into activation at the
 15 direction of the appropriate agency head and one that is
 16 not compelled to so respond, with appropriate cor-
 17 responding differing benefits for each such component.

18 (e) SECURITY CLEARANCES.—

19 (1) IN GENERAL.—The appropriate agency
 20 head shall ensure that all members of the Civilian
 21 Cyber Security Reserve in the covered agency under-
 22 go the appropriate personnel vetting and adjudica-
 23 tion commensurate with the duties of the position,
 24 including a determination of eligibility for access to
 25 classified information where a security clearance is

necessary, in accordance with Executive Order 12968 (50 U.S.C. 3161 note; relating to access to classified information) and Executive Order 13467 (50 U.S.C. 3161 note; relating to reforming processes related to suitability for Government employment, fitness for contractor employees, and eligibility for access to classified national security information).

(2) COST OF MAINTAINING CLEARANCES.—The original sponsor of a security clearance of a member of a Civilian Cyber Security Reserve at a covered agency shall be responsible for the cost of maintaining that security clearance.

(f) PROJECT GUIDANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each appropriate agency head may issue guidance establishing and implementing a pilot project authorized under subsection (b) at the covered agency.

(2) PENALTIES.—

(A) IN GENERAL.—In developing guidance under paragraph (1), an appropriate agency head may provide for penalties for individuals who do not respond to activation when called, such as recoupment of pay or benefits earned

1 as a member of the Civilian Cyber Security Re-
 2 serve or recoupment of civilian service cred-
 3 itable under section 8411 of title 5, United
 4 States Code.

5 (B) PROCEDURES.—In the case of a pro-
 6 posed penalty or action under this paragraph,
 7 the individual shall be entitled to the applicable
 8 procedures set forth in title 5, Code of Federal
 9 Regulations, or as otherwise specified in appli-
 10 cable guidance.

11 (g) EVALUATION.—Not later than 5 years after the
 12 pilot project authorized under subsection (b) is established
 13 in each covered agency, the Comptroller General of the
 14 United States shall—

15 (1) conduct a study evaluating the pilot project
 16 at the covered agency; and

17 (2) submit to Congress—

18 (A) a report on the results of the study;
 19 and

20 (B) a recommendation with respect to
 21 whether the pilot project should be modified,
 22 extended in duration, or established as a per-
 23 manent program.

24 (h) REPORT.—Not later than 5 years after the pilot
 25 project authorized under subsection (b) is established in

1 a covered agency, the appropriate agency head shall sub-
 2 mit to the Committee on Homeland Security and Govern-
 3 mental Affairs and the Committee on Armed Services of
 4 the Senate and the Committee on Homeland Security and
 5 the Committee on Armed Services of the House of Rep-
 6 resentatives a report—

7 (1) on the activities carried out under the pilot
 8 project; and

9 (2) that includes a recommendation with re-
 10 spect to whether the pilot project should be modi-
 11 fied, extended in duration, or established as a per-
 12 manent program.

13 (i) **SUNSET.**—A pilot project authorized under this
 14 section shall terminate on the date that is 6 years after
 15 the date on which the pilot project is established.

16 (j) **AUTHORIZATION OF APPROPRIATIONS.**—There
 17 are authorized to be appropriated to each appropriate
 18 agency head such sums as may be necessary to carry out
 19 this section.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Civilian Cybersecurity*
 22 *Reserve Act”.*

23 **SEC. 2. CIVILIAN CYBERSECURITY RESERVE PILOT**
 24 **PROJECT.**

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

1 (1) *AGENCY*.—The term “Agency” means the Cy-
 2 bersecurity and Infrastructure Security Agency.

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

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

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

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

12 (D) *the Committee on Oversight and Re-*
 13 *form of the House of Representatives; and*

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

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

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

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

24 (6) *SIGNIFICANT INCIDENT*.—The term “signifi-
 25 cant incident”—

(A) means an incident or a group of related incidents that results, or is likely to result, in demonstrable harm to—

(i) the national security interests, foreign relations, or economy of the United States; or

(ii) the public confidence, civil liberties, or public health and safety of the people of the United States; and

(B) does not include an incident or a portion of a group of related incidents that occurs on—

(i) a national security system, as defined in section 3552 of title 44, United States Code; or

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

(7) *TEMPORARY POSITION*.—The term “temporary position” means a position in the competitive or excepted service for a period of 6 months or less.

(8) *UNIFORMED SERVICES*.—The term “uniformed services” has the meaning given the term in section 2101 of title 5, United States Code.

(b) *PILOT PROJECT*.—

1 (1) *IN GENERAL.*—*The Director may carry out*
2 *a pilot project to establish a Civilian Cybersecurity*
3 *Reserve at the Agency.*

4 (2) *PURPOSE.*—*The purpose of a Civilian Cyber-*
5 *security Reserve is to enable the Agency to effectively*
6 *respond to significant incidents.*

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

13 (A) *establishing qualifications requirements*
14 *for, recruitment of, and appointment to posi-*
15 *tions; and*

16 (B) *classifying positions.*

17 (4) *APPOINTMENTS.*—*Under the pilot project au-*
18 *thorized under paragraph (1), upon occurrence of a*
19 *significant incident, the Director—*

20 (A) *may activate members of the Civilian*
21 *Cybersecurity Reserve by—*

22 (i) *noncompetitively appointing mem-*
23 *bers of the Civilian Cybersecurity Reserve to*
24 *temporary positions in the competitive serv-*
25 *ice; or*

1 (ii) appointing members of the Civil-
 2 ian Cybersecurity Reserve to temporary po-
 3 sitions in the excepted service;

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

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

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

13 (6) ADDITIONAL EMPLOYEES.—Individuals ap-
 14 pointed under subsection (b)(4) shall be in addition
 15 to any employees of the Agency who provide cyberse-
 16 curity services.

17 (7) EMPLOYMENT PROTECTIONS.—The Secretary
 18 of Labor shall prescribe such regulations as necessary
 19 to ensure the reemployment, continuation of benefits,
 20 and non-discrimination in reemployment of individ-
 21 uals appointed under subsection (b)(4), provided that
 22 such regulations shall include, at a minimum, those
 23 rights and obligations set forth under chapter 43 of
 24 title 38, United States Code.

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

9 (c) *ELIGIBILITY; APPLICATION AND SELECTION*.—

10 (1) *IN GENERAL*.—Under the pilot project au-
 11 thorized under subsection (b), the Director shall estab-
 12 lish criteria for—

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

15 (B) the application and selection processes
 16 for the Civilian Cybersecurity Reserve.

17 (2) *REQUIREMENTS FOR INDIVIDUALS*.—The cri-
 18 teria established under paragraph (1)(A) with respect
 19 to an individual shall include—

20 (A) previous employment—

21 (i) by the executive branch;

22 (ii) within the uniformed services;

23 (iii) as a Federal contractor within the
 24 executive branch; or

1 (iv) by a State, local, Tribal, or terri-
2 torial government;

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

10 (C) cybersecurity expertise.

11 (3) *PRESCREENING.*—The Agency shall—

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

16 (B) require each individual appointed
17 under subsection (b)(4) to notify the Agency if a
18 potential conflict of interest arises during the ap-
19 pointment.

20 (4) *AGREEMENT REQUIRED.*—An individual
21 may become a member of the Civilian Cybersecurity
22 Reserve only if the individual enters into an agree-
23 ment with the Director to become such a member,
24 which shall set forth the rights and obligations of the
25 individual and the Agency.

1 (5) *EXCEPTION FOR CONTINUING MILITARY SERV-*
 2 *ICE COMMITMENTS.*—*A member of the Selected Re-*
 3 *serve under section 10143 of title 10, United States*
 4 *Code, may not be a member of the Civilian Cyberse-*
 5 *curity Reserve.*

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

12 (7) *PROHIBITION.*—*Any individual who is an*
 13 *employee of the executive branch may not be recruited*
 14 *or appointed to serve in the Civilian Cybersecurity*
 15 *Reserve.*

16 (d) *SECURITY CLEARANCES.*—

17 (1) *IN GENERAL.*—*The Director shall ensure that*
 18 *all members of the Civilian Cybersecurity Reserve un-*
 19 *dergo the appropriate personnel vetting and adjudica-*
 20 *tion commensurate with the duties of the position, in-*
 21 *cluding a determination of eligibility for access to*
 22 *classified information where a security clearance is*
 23 *necessary, according to applicable policy and authori-*
 24 *ties.*

1 (2) *COST OF SPONSORING CLEARANCES.*—If a
 2 member of the Civilian Cybersecurity Reserve requires
 3 a security clearance in order to carry out their duties,
 4 the Agency shall be responsible for the cost of spon-
 5 soring the security clearance of a member of the Civil-
 6 ian Cybersecurity Reserve.

7 (e) *STUDY AND IMPLEMENTATION PLAN.*—

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

13 (A) compensation and benefits for members
 14 of the Civilian Cybersecurity Reserve;

15 (B) activities that members may undertake
 16 as part of their duties;

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

20 (D) methods for preventing conflicts of in-
 21 terest or other ethical concerns as a result of par-
 22 ticipation in the pilot project and details of
 23 mitigation efforts to address any conflict of in-
 24 terest concerns;

1 (E) resources, including additional funding,
2 needed to carry out the pilot project;

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

7 (G) processes and requirements for training
8 and onboarding members.

9 (2) *IMPLEMENTATION PLAN.*—Not later than 1
10 year after beginning the study required under para-
11 graph (1), the Agency shall—

12 (A) submit to the appropriate congressional
13 committees an implementation plan for the pilot
14 project authorized under subsection (b)(1); and

15 (B) provide to the appropriate congressional
16 committees a briefing on the implementation
17 plan.

18 (3) *PROHIBITION.*—The Agency may not take
19 any action to begin implementation of the pilot
20 project authorized under subsection (b)(1) until the
21 Agency fulfills the requirements under paragraph (2).

22 (f) *PROJECT GUIDANCE.*—Not later than 2 years after
23 the date of enactment of this Act, the Director shall, in con-
24 sultation with the Office of Personnel Management and the
25 Office of Government Ethics, issue guidance establishing

1 *and implementing the pilot project authorized under sub-*
 2 *section (b)(1) at the Agency.*

3 *(g) BRIEFINGS AND REPORT.—*

4 *(1) BRIEFINGS.—Not later than 1 year after the*
 5 *date of enactment of this Act, and every year there-*
 6 *after, the Agency shall provide to the appropriate con-*
 7 *gressional committees a briefing on activities carried*
 8 *out under the pilot project of the Agency, including—*

9 *(A) participation in the Civilian Cybersecu-*
 10 *rity Reserve, including the number of partici-*
 11 *pants, the diversity of participants, and any*
 12 *barriers to recruitment or retention of members;*

13 *(B) an evaluation of the ethical require-*
 14 *ments of the pilot project;*

15 *(C) whether the Civilian Cybersecurity Re-*
 16 *serve has been effective in providing additional*
 17 *capacity to the Agency during significant inci-*
 18 *dents; and*

19 *(D) an evaluation of the eligibility require-*
 20 *ments for the pilot project.*

21 *(2) REPORT.—Not earlier than 6 months and*
 22 *not later than 3 months before the date on which the*
 23 *pilot project of the Agency terminates under sub-*
 24 *section (i), the Agency shall submit to the appropriate*
 25 *congressional committees a report and provide a*

1 *briefing on recommendations relating to the pilot*
 2 *project, including recommendations for—*

3 *(A) whether the pilot project should be*
 4 *modified, extended in duration, or established as*
 5 *a permanent program, and if so, an appropriate*
 6 *scope for the program;*

7 *(B) how to attract participants, ensure a*
 8 *diversity of participants, and address any bar-*
 9 *riers to recruitment or retention of members of*
 10 *the Civilian Cybersecurity Reserve;*

11 *(C) the ethical requirements of the pilot*
 12 *project and the effectiveness of mitigation efforts*
 13 *to address any conflict of interest concerns; and*

14 *(D) an evaluation of the eligibility require-*
 15 *ments for the pilot project.*

16 *(h) EVALUATION.—Not later than 3 years after the*
 17 *pilot project authorized under subsection (b) is established*
 18 *in the Agency, the Comptroller General of the United States*
 19 *shall—*

20 *(1) conduct a study evaluating the pilot project*
 21 *at the Agency; and*

22 *(2) submit to Congress—*

23 *(A) a report on the results of the study; and*

24 *(B) a recommendation with respect to*
 25 *whether the pilot project should be modified, ex-*

1 *tended in duration, or established as a perma-*
2 *nent program.*

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

6 *(j) NO ADDITIONAL FUNDS.—*

7 *(1) IN GENERAL.—No additional funds are au-*
8 *thorized to be appropriated for the purpose of car-*
9 *rying out this Act.*

10 *(2) EXISTING AUTHORIZED AMOUNTS.—Funds to*
11 *carry out this Act may, as provided in advance in*
12 *appropriations Acts, only come from amounts author-*
13 *ized to be appropriated to the Agency.*

Calendar No. 348

117TH CONGRESS
2^D Session

S. 1324

[Report No. 117-97]

A BILL

To establish a Civilian Cyber Security Reserve as a pilot project to address the cyber security needs of the United States with respect to national security, and for other purposes.

APRIL 27, 2022

Reported with an amendment