

Suspend the Rules and Pass the Bill, H.R. 3599 with an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

117TH CONGRESS
1ST SESSION

H. R. 3599

To establish a Federal rotational cyber workforce program for the Federal cyber workforce, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 28, 2021

Mr. KHANNA (for himself and Ms. MACE) introduced the following bill; which was referred to the Committee on Oversight and Reform

A BILL

To establish a Federal rotational cyber workforce program for the Federal cyber workforce, 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 “Federal Rotational
5 Cyber Workforce Program Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) AGENCY.—The term “agency” has the
2 meaning given the term “Executive agency” in sec-
3 tion 105 of title 5, United States Code, except that
4 the term does not include the Government Account-
5 ability Office.

6 (2) COMPETITIVE SERVICE.—The term “com-
7 petitive service” has the meaning given that term in
8 section 2102 of title 5, United States Code.

9 (3) COUNCILS.—The term “Councils” means—

10 (A) the Chief Human Capital Officers
11 Council established under section 1303 of the
12 Chief Human Capital Officers Act of 2002 (5
13 U.S.C. 1401 note); and

14 (B) the Chief Information Officers Council
15 established under section 3603 of title 44,
16 United States Code.

17 (4) CYBER WORKFORCE POSITION.—The term
18 “cyber workforce position” means a position identi-
19 fied as having information technology, cybersecurity,
20 or other cyber-related functions under section 303 of
21 the Federal Cybersecurity Workforce Assessment
22 Act of 2015 (5 U.S.C. 301 note).

23 (5) DIRECTOR.—The term “Director” means
24 the Director of the Office of Personnel Management.

1 (6) EMPLOYEE.—The term “employee” has the
2 meaning given the term in section 2105 of title 5,
3 United States Code.

4 (7) EMPLOYING AGENCY.—The term “employ-
5 ing agency” means the agency from which an em-
6 ployee is detailed to a rotational cyber workforce po-
7 sition.

8 (8) EXCEPTED SERVICE.—The term “excepted
9 service” has the meaning given that term in section
10 2103 of title 5, United States Code.

11 (9) ROTATIONAL CYBER WORKFORCE POSI-
12 TION.—The term “rotational cyber workforce posi-
13 tion” means a cyber workforce position with respect
14 to which a determination has been made under sec-
15 tion 3(a)(1).

16 (10) ROTATIONAL CYBER WORKFORCE PRO-
17 GRAM.—The term “rotational cyber workforce pro-
18 gram” means the program for the detail of employ-
19 ees among rotational cyber workforce positions at
20 agencies.

21 (11) SECRETARY.—The term “Secretary”
22 means the Secretary of Homeland Security.

23 **SEC. 3. ROTATIONAL CYBER WORKFORCE POSITIONS.**

24 (a) DETERMINATION WITH RESPECT TO ROTA-
25 TIONAL SERVICE.—

1 (1) IN GENERAL.—The head of each agency
2 may determine that a cyber workforce position in
3 that agency is eligible for the rotational cyber work-
4 force program, which shall not be construed to mod-
5 ify the requirement under section 4(b)(3) that par-
6 ticipation in the rotational cyber workforce program
7 by an employee shall be voluntary.

8 (2) NOTICE PROVIDED.—The head of an agency
9 shall submit to the Director—

10 (A) notice regarding any determination
11 made by the head of the agency under para-
12 graph (1); and

13 (B) for each position with respect to which
14 the head of the agency makes a determination
15 under paragraph (1), the information required
16 under subsection (b)(1).

17 (b) PREPARATION OF LIST.—The Director, with as-
18 sistance from the Councils and the Secretary, shall develop
19 a list of rotational cyber workforce positions that—

20 (1) with respect to each such position, to the
21 extent that the information does not disclose sen-
22 sitive national security information, includes—

23 (A) the title of the position;

24 (B) the occupational series with respect to
25 the position;

1 (C) the grade level or work level with re-
2 spect to the position;

3 (D) the agency in which the position is lo-
4 cated;

5 (E) the duty location with respect to the
6 position; and

7 (F) the major duties and functions of the
8 position; and

9 (2) shall be used to support the rotational cyber
10 workforce program.

11 (c) DISTRIBUTION OF LIST.—Not less frequently
12 than annually, the Director shall distribute an updated list
13 developed under subsection (b) to the head of each agency
14 and other appropriate entities.

15 **SEC. 4. ROTATIONAL CYBER WORKFORCE PROGRAM.**

16 (a) OPERATION PLAN.—

17 (1) IN GENERAL.—Not later than 270 days
18 after the date of enactment of this Act, and in con-
19 sultation with the Councils, the Secretary, represent-
20 atives of other agencies, and any other entity as the
21 Director determines appropriate, the Director shall
22 develop and issue a Federal Rotational Cyber Work-
23 force Program operation plan providing policies,
24 processes, and procedures for a program for the de-
25 tailing of employees among rotational cyber work-

1 force positions at agencies, which may be incor-
2 porated into and implemented through mechanisms
3 in existence on the date of enactment of this Act.

4 (2) UPDATING.—The Director may, in consulta-
5 tion with the Councils, the Secretary, and other enti-
6 ties as the Director determines appropriate, periodi-
7 cally update the operation plan developed and issued
8 under paragraph (1).

9 (b) REQUIREMENTS.—The operation plan developed
10 and issued under subsection (a) shall, at a minimum—

11 (1) identify agencies for participation in the ro-
12 tational cyber workforce program;

13 (2) establish procedures for the rotational cyber
14 workforce program, including—

15 (A) any training, education, or career de-
16 velopment requirements associated with partici-
17 pation in the rotational cyber workforce pro-
18 gram;

19 (B) any prerequisites or requirements for
20 participation in the rotational cyber workforce
21 program; and

22 (C) appropriate rotational cyber workforce
23 program performance measures, reporting re-
24 quirements, employee exit surveys, and other

1 accountability devices for the evaluation of the
2 program;

3 (3) provide that participation in the rotational
4 cyber workforce program by an employee shall be
5 voluntary;

6 (4) provide that an employee shall be eligible to
7 participate in the rotational cyber workforce pro-
8 gram if the head of the employing agency of the em-
9 ployee, or a designee of the head of the employing
10 agency of the employee, approves of the participation
11 of the employee;

12 (5) provide that the detail of an employee to a
13 rotational cyber workforce position under the rota-
14 tional cyber workforce program shall be on a nonre-
15 imbursable basis;

16 (6) provide that agencies may agree to partner
17 to ensure that the employing agency of an employee
18 that participates in the rotational cyber workforce
19 program is able to fill the position vacated by the
20 employee;

21 (7) require that an employee detailed to a rota-
22 tional cyber workforce position under the rotational
23 cyber workforce program, upon the end of the period
24 of service with respect to the detail, shall be entitled
25 to return to the position held by the employee, or an

1 equivalent position, in the employing agency of the
2 employee without loss of pay, seniority, or other
3 rights or benefits to which the employee would have
4 been entitled had the employee not been detailed;

5 (8) provide that discretion with respect to the
6 assignment of an employee under the rotational
7 cyber workforce program shall remain with the em-
8 ploying agency of the employee;

9 (9) require that an employee detailed to a rota-
10 tional cyber workforce position under the rotational
11 cyber workforce program in an agency that is not
12 the employing agency of the employee shall have all
13 the rights that would be available to the employee if
14 the employee were detailed under a provision of law
15 other than this Act from the employing agency to
16 the agency in which the rotational cyber workforce
17 position is located;

18 (10) provide that participation by an employee
19 in the rotational cyber workforce program shall not
20 constitute a change in the conditions of the employ-
21 ment of the employee; and

22 (11) provide that an employee participating in
23 the rotational cyber workforce program shall receive
24 performance evaluations relating to service in the ro-

1 rotational cyber workforce program in a participating
2 agency that are—

3 (A) prepared by an appropriate officer, su-
4 pervisor, or management official of the employ-
5 ing agency, acting in coordination with the su-
6 pervisor at the agency in which the employee is
7 performing service in the rotational cyber work-
8 force position;

9 (B) based on objectives identified in the
10 operation plan with respect to the employee;
11 and

12 (C) based in whole or in part on the con-
13 tribution of the employee to the agency in which
14 the employee performed such service, as com-
15 municated from that agency to the employing
16 agency of the employee.

17 (c) PROGRAM REQUIREMENTS FOR ROTATIONAL
18 SERVICE.—

19 (1) IN GENERAL.—An employee serving in a
20 cyber workforce position in an agency may, with the
21 approval of the head of the agency, submit an appli-
22 cation for detail to a rotational cyber workforce posi-
23 tion that appears on the list developed under section
24 3(b).

1 (2) OPM APPROVAL FOR CERTAIN POSITIONS.—

2 An employee serving in a position in the excepted
3 service may only be selected for a rotational cyber
4 workforce position that is in the competitive service
5 with the prior approval of the Office of Personnel
6 Management, in accordance with section 300.301 of
7 title 5, Code of Federal Regulations, or any suc-
8 cessor thereto.

9 (3) SELECTION AND TERM.—

10 (A) SELECTION.—The head of an agency
11 shall select an employee for a rotational cyber
12 workforce position under the rotational cyber
13 workforce program in a manner that is con-
14 sistent with the merit system principles under
15 section 2301(b) of title 5, United States Code.

16 (B) TERM.—Except as provided in sub-
17 paragraph (C), and notwithstanding section
18 3341(b) of title 5, United States Code, a detail
19 to a rotational cyber workforce position shall be
20 for a period of not less than 180 days and not
21 more than 1 year.

22 (C) EXTENSION.—The Chief Human Cap-
23 ital Officer of the agency to which an employee
24 is detailed under the rotational cyber workforce
25 program may extend the period of a detail de-

1 scribed in subparagraph (B) for a period of 60
2 days unless the Chief Human Capital Officer of
3 the employing agency of the employee objects to
4 that extension.

5 (4) WRITTEN SERVICE AGREEMENTS.—

6 (A) IN GENERAL.—The detail of an em-
7 ployee to a rotational cyber workforce position
8 shall be contingent upon the employee entering
9 into a written service agreement with the em-
10 ploying agency under which the employee is re-
11 quired to complete a period of employment with
12 the employing agency following the conclusion
13 of the detail that is equal in length to the pe-
14 riod of the detail.

15 (B) OTHER AGREEMENTS AND OBLIGA-
16 TIONS.—A written service agreement under
17 subparagraph (A) shall not supersede or modify
18 the terms or conditions of any other service
19 agreement entered into by the employee under
20 any other authority or relieve the obligations
21 between the employee and the employing agency
22 under such a service agreement. Nothing in this
23 subparagraph prevents an employing agency
24 from terminating a service agreement entered
25 into under any other authority under the terms

1 of such agreement or as required by law or reg-
2 ulation.

3 **SEC. 5. REPORTING BY GAO.**

4 Not later than the end of the third fiscal year after
5 the fiscal year in which the operation plan under section
6 4(a) is issued, the Comptroller General of the United
7 States shall submit to Congress a report assessing the op-
8 eration and effectiveness of the rotational cyber workforce
9 program, which shall address, at a minimum—

10 (1) the extent to which agencies have partici-
11 pated in the rotational cyber workforce program, in-
12 cluding whether the head of each such participating
13 agency has—

14 (A) identified positions within the agency
15 that are rotational cyber workforce positions;

16 (B) had employees from other partici-
17 pating agencies serve in positions described in
18 subparagraph (A); and

19 (C) had employees of the agency request to
20 serve in rotational cyber workforce positions
21 under the rotational cyber workforce program
22 in participating agencies, including a descrip-
23 tion of how many such requests were approved;
24 and

1 (2) the experiences of employees serving in ro-
2 tational cyber workforce positions under the rota-
3 tional cyber workforce program, including an assess-
4 ment of—

5 (A) the period of service;

6 (B) the positions (including grade level and
7 occupational series or work level) held by em-
8 ployees before completing service in a rotational
9 cyber workforce position under the rotational
10 cyber workforce program;

11 (C) the extent to which each employee who
12 completed service in a rotational cyber work-
13 force position under the rotational cyber work-
14 force program achieved a higher skill level, or
15 attained a skill level in a different area, with re-
16 spect to information technology, cybersecurity,
17 or other cyber-related functions; and

18 (D) the extent to which service in rota-
19 tional cyber workforce positions has affected
20 intra-agency and interagency integration and
21 coordination of cyber practices, functions, and
22 personnel management.

23 **SEC. 6. SUNSET.**

24 Effective 5 years after the date of enactment of this
25 Act, this Act is repealed.

1 **SEC. 7. DETERMINATION OF BUDGETARY EFFECTS.**

2 The budgetary effects of this Act, for the purpose of
3 complying with the Statutory Pay-As-You-Go Act of 2010,
4 shall be determined by reference to the latest statement
5 titled “Budgetary Effects of PAYGO Legislation” for this
6 Act, submitted for printing in the Congressional Record
7 by the Chairman of the House Budget Committee, pro-
8 vided that such statement has been submitted prior to the
9 vote on passage.