

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3599
OFFERED BY MRS. CAROLYN B. MALONEY OF
NEW YORK**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Federal Rotational
3 Cyber Workforce Program Act of 2021”.

4 SEC. 2. DEFINITIONS.

5 In this Act:

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

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

14 (3) COUNCILS.—The term “Councils” means—
15 (A) the Chief Human Capital Officers
16 Council established under section 1303 of the

1 Chief Human Capital Officers Act of 2002 (5
2 U.S.C. 1401 note); and

3 (B) the Chief Information Officers Council
4 established under section 3603 of title 44,
5 United States Code.

6 (4) CYBER WORKFORCE POSITION.—The term
7 “cyber workforce position” means a position identi-
8 fied as having information technology, cybersecurity,
9 or other cyber-related functions under section 303 of
10 the Federal Cybersecurity Workforce Assessment
11 Act of 2015 (5 U.S.C. 301 note).

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

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

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

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

24 (9) ROTATIONAL CYBER WORKFORCE POSI-
25 TION.—The term “rotational cyber workforce posi-

1 tion” means a cyber workforce position with respect
2 to which a determination has been made under sec-
3 tion 3(a)(1).

4 (10) ROTATIONAL CYBER WORKFORCE PRO-
5 GRAM.—The term “rotational cyber workforce pro-
6 gram” means the program for the detail of employ-
7 ees among rotational cyber workforce positions at
8 agencies.

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

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

12 (a) DETERMINATION WITH RESPECT TO ROTA-
13 TIONAL SERVICE.—

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

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

23 (A) notice regarding any determination
24 made by the head of the agency under para-
25 graph (1); and

1 (B) for each position with respect to which
2 the head of the agency makes a determination
3 under paragraph (1), the information required
4 under subsection (b)(1).

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

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

11 (A) the title of the position;

12 (B) the occupational series with respect to
13 the position;

14 (C) the grade level or work level with re-
15 spect to the position;

16 (D) the agency in which the position is lo-
17 cated;

18 (E) the duty location with respect to the
19 position; and

20 (F) the major duties and functions of the
21 position; and

22 (2) shall be used to support the rotational cyber
23 workforce program.

24 (c) DISTRIBUTION OF LIST.—Not less frequently
25 than annually, the Director shall distribute an updated list

1 developed under subsection (b) to the head of each agency
2 and other appropriate entities.

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

4 (a) OPERATION PLAN.—

5 (1) IN GENERAL.—Not later than 270 days
6 after the date of enactment of this Act, and in con-
7 sultation with the Councils, the Secretary, represent-
8 atives of other agencies, and any other entity as the
9 Director determines appropriate, the Director shall
10 develop and issue a Federal Rotational Cyber Work-
11 force Program operation plan providing policies,
12 processes, and procedures for a program for the de-
13 tailing of employees among rotational cyber work-
14 force positions at agencies, which may be incor-
15 porated into and implemented through mechanisms
16 in existence on the date of enactment of this Act.

17 (2) UPDATING.—The Director may, in consulta-
18 tion with the Councils, the Secretary, and other enti-
19 ties as the Director determines appropriate, periodi-
20 cally update the operation plan developed and issued
21 under paragraph (1).

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

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

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

3 (A) any training, education, or career de-
4 velopment requirements associated with partici-
5 pation in the rotational cyber workforce pro-
6 gram;

7 (B) any prerequisites or requirements for
8 participation in the rotational cyber workforce
9 program; and

10 (C) appropriate rotational cyber workforce
11 program performance measures, reporting re-
12 quirements, employee exit surveys, and other
13 accountability devices for the evaluation of the
14 program;

15 (3) provide that participation in the rotational
16 cyber workforce program by an employee shall be
17 voluntary;

18 (4) provide that an employee shall be eligible to
19 participate in the rotational cyber workforce pro-
20 gram if the head of the employing agency of the em-
21 ployee, or a designee of the head of the employing
22 agency of the employee, approves of the participation
23 of the employee;

24 (5) provide that the detail of an employee to a
25 rotational cyber workforce position under the rota-

1 rotational cyber workforce program shall be on a non-re-
2 imburseable basis;

3 (6) provide that agencies may agree to partner
4 to ensure that the employing agency of an employee
5 that participates in the rotational cyber workforce
6 program is able to fill the position vacated by the
7 employee;

8 (7) require that an employee detailed to a rota-
9 tional cyber workforce position under the rotational
10 cyber workforce program, upon the end of the period
11 of service with respect to the detail, shall be entitled
12 to return to the position held by the employee, or an
13 equivalent position, in the employing agency of the
14 employee without loss of pay, seniority, or other
15 rights or benefits to which the employee would have
16 been entitled had the employee not been detailed;

17 (8) provide that discretion with respect to the
18 assignment of an employee under the rotational
19 cyber workforce program shall remain with the em-
20 ploying agency of the employee;

21 (9) require that an employee detailed to a rota-
22 tional cyber workforce position under the rotational
23 cyber workforce program in an agency that is not
24 the employing agency of the employee shall have all
25 the rights that would be available to the employee if

1 the employee were detailed under a provision of law
2 other than this Act from the employing agency to
3 the agency in which the rotational cyber workforce
4 position is located;

5 (10) provide that participation by an employee
6 in the rotational cyber workforce program shall not
7 constitute a change in the conditions of the employ-
8 ment of the employee; and

9 (11) provide that an employee participating in
10 the rotational cyber workforce program shall receive
11 performance evaluations relating to service in the ro-
12 tational cyber workforce program in a participating
13 agency that are—

14 (A) prepared by an appropriate officer, su-
15 pervisor, or management official of the employ-
16 ing agency, acting in coordination with the su-
17 pervisor at the agency in which the employee is
18 performing service in the rotational cyber work-
19 force position;

20 (B) based on objectives identified in the
21 operation plan with respect to the employee;
22 and

23 (C) based in whole or in part on the con-
24 tribution of the employee to the agency in which
25 the employee performed such service, as com-

1 municated from that agency to the employing
2 agency of the employee.

3 (c) PROGRAM REQUIREMENTS FOR ROTATIONAL
4 SERVICE.—

5 (1) IN GENERAL.—An employee serving in a
6 cyber workforce position in an agency may, with the
7 approval of the head of the agency, submit an appli-
8 cation for detail to a rotational cyber workforce posi-
9 tion that appears on the list developed under section
10 3(b).

11 (2) OPM APPROVAL FOR CERTAIN POSITIONS.—
12 An employee serving in a position in the excepted
13 service may only be selected for a rotational cyber
14 workforce position that is in the competitive service
15 with the prior approval of the Office of Personnel
16 Management, in accordance with section 300.301 of
17 title 5, Code of Federal Regulations, or any suc-
18 cessor thereto.

19 (3) SELECTION AND TERM.—

20 (A) SELECTION.—The head of an agency
21 shall select an employee for a rotational cyber
22 workforce position under the rotational cyber
23 workforce program in a manner that is con-
24 sistent with the merit system principles under
25 section 2301(b) of title 5, United States Code.

1 (B) TERM.—Except as provided in sub-
2 paragraph (C), and notwithstanding section
3 3341(b) of title 5, United States Code, a detail
4 to a rotational cyber workforce position shall be
5 for a period of not less than 180 days and not
6 more than 1 year.

7 (C) EXTENSION.—The Chief Human Cap-
8 ital Officer of the agency to which an employee
9 is detailed under the rotational cyber workforce
10 program may extend the period of a detail de-
11 scribed in subparagraph (B) for a period of 60
12 days unless the Chief Human Capital Officer of
13 the employing agency of the employee objects to
14 that extension.

15 (4) WRITTEN SERVICE AGREEMENTS.—

16 (A) IN GENERAL.—The detail of an em-
17 ployee to a rotational cyber workforce position
18 shall be contingent upon the employee entering
19 into a written service agreement with the em-
20 ploying agency under which the employee is re-
21 quired to complete a period of employment with
22 the employing agency following the conclusion
23 of the detail that is equal in length to the pe-
24 riod of the detail.

1 (B) OTHER AGREEMENTS AND OBLIGA-
2 TIONS.—A written service agreement under
3 subparagraph (A) shall not supersede or modify
4 the terms or conditions of any other service
5 agreement entered into by the employee under
6 any other authority or relieve the obligations
7 between the employee and the employing agency
8 under such a service agreement. Nothing in this
9 subparagraph prevents an employing agency
10 from terminating a service agreement entered
11 into under any other authority under the terms
12 of such agreement or as required by law or reg-
13 ulation.

14 **SEC. 5. REPORTING BY GAO.**

15 Not later than the end of the third fiscal year after
16 the fiscal year in which the operation plan under section
17 4(a) is issued, the Comptroller General of the United
18 States shall submit to Congress a report assessing the op-
19 eration and effectiveness of the rotational cyber workforce
20 program, which shall address, at a minimum—

21 (1) the extent to which agencies have partici-
22 pated in the rotational cyber workforce program, in-
23 cluding whether the head of each such participating
24 agency has—

1 (A) identified positions within the agency
2 that are rotational cyber workforce positions;

3 (B) had employees from other partici-
4 pating agencies serve in positions described in
5 subparagraph (A); and

6 (C) had employees of the agency request to
7 serve in rotational cyber workforce positions
8 under the rotational cyber workforce program
9 in participating agencies, including a descrip-
10 tion of how many such requests were approved;
11 and

12 (2) the experiences of employees serving in ro-
13 tational cyber workforce positions under the rota-
14 tional cyber workforce program, including an assess-
15 ment of—

16 (A) the period of service;

17 (B) the positions (including grade level and
18 occupational series or work level) held by em-
19 ployees before completing service in a rotational
20 cyber workforce position under the rotational
21 cyber workforce program;

22 (C) the extent to which each employee who
23 completed service in a rotational cyber work-
24 force position under the rotational cyber work-
25 force program achieved a higher skill level, or

1 attained a skill level in a different area, with re-
2 spect to information technology, cybersecurity,
3 or other cyber-related functions; and

4 (D) the extent to which service in rota-
5 tional cyber workforce positions has affected
6 intra-agency and interagency integration and
7 coordination of cyber practices, functions, and
8 personnel management.

9 **SEC. 6. SUNSET.**

10 Effective 5 years after the date of enactment of this
11 Act, this Act is repealed.

