

**Calendar No. 556**

117TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
117-204 }

FACILITATING FEDERAL EMPLOYEE  
RESKILLING ACT

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 1330

TO FACILITATE THE RESKILLING OF FEDERAL EMPLOYEES,  
AND FOR OTHER PURPOSES



NOVEMBER 17, 2022.—Ordered to be printed

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**FACILITATING FEDERAL EMPLOYEE RESKILLING ACT**

NOVEMBER 17, 2022.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

**R E P O R T**

[To accompany S. 1330]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1330) to facilitate the reskilling of Federal employees, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

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**I. PURPOSE AND SUMMARY**

S. 1330, the Facilitating Federal Employee Reskilling Act, sets requirements and guardrails for federal reskilling programs and incentivizes employee participation.

**II. BACKGROUND AND NEED FOR THE LEGISLATION**

Employee reskilling or upskilling has long been a focus of the private sector in response to economic disruptions in traditional industries. According to Deloitte’s 2020 Global Human Capital Trends survey, 53 percent of respondents said that at least half of their workforce will need to develop new skills and capabilities in

the next three years.<sup>1</sup> Reskilling these employees is viewed as a key worker retention and workforce resiliency measure.

These issues are not unique to private industry. In its latest High Risk List, the Government Accountability Office (GAO) once again included Strategic Human Capital Management as a high risk area, citing persistent critical skills gaps at Federal agencies as one of the biggest challenges facing the Federal workforce.<sup>2</sup> The shortage of cybersecurity professionals in government is well-documented and much-discussed; however, GAO reports that many science, technology, engineering, and mathematics (STEM) occupations also suffer from critical gaps.<sup>3</sup> Though there are some ongoing efforts on the part of the Office of Personnel Management (OPM) to address these challenges, GAO makes clear that more must be done.<sup>4</sup>

In 2018, the President's Management Agenda prioritized reskilling of Federal employees as a method for building a modern IT workforce and promoting an agile and efficient Federal workforce.<sup>5</sup> The Administration subsequently established the Federal Cybersecurity Reskilling Academy, which welcomed its inaugural cohort of 30 federal employees representing multiple agencies in April 2019.<sup>6</sup> Since most of the participants were mid-career employees without IT backgrounds, upon completion of the program those employees were only qualified for entry-level cybersecurity positions, which paid significantly less than their current positions.<sup>7</sup> Because this established a clear disincentive to seek a new position in cybersecurity, the program did not result in new positions for the participants.<sup>8</sup>

The National Commission on Military, National, and Public Service highlighted the need to reskill the Federal workforce in its report to Congress, and specifically proposed legislation to fix the grade level issue encountered by the Federal Cybersecurity Reskilling Academy participants.<sup>9</sup> This proposal served as the basis for S. 1330.

The Facilitating Federal Employee Reskilling Act authorizes OPM to regulate Federal reskilling programs across the government and puts in place commonsense standards for such programs, including a requirement to allow Federal employees to retain their grade-level when transferring to a new position that utilizes skills gained from a reskilling program. It also directs OPM to develop

<sup>1</sup> Deloitte, Deloitte Insights, *The Social Enterprise at Work: Paradox as a Path Forward* (2020) (<https://www2.deloitte.com/us/en/insights/focus/human-capital-trends/2020/technology-and-the-social-enterprise.html>).

<sup>2</sup> Government Accountability Office, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas* (GAO-21-119SP) (Mar. 2021).

<sup>3</sup> *Id.*, at 50.

<sup>4</sup> *Id.*

<sup>5</sup> Office of Management and Budget, General Services Administration, *President's Management Agenda* (2018) ([https://trumpadministration.archives.performance.gov/PMA/Presidents\\_Management\\_Agenda.pdf](https://trumpadministration.archives.performance.gov/PMA/Presidents_Management_Agenda.pdf)).

<sup>6</sup> Government Accountability Office, *Federal Management: Selected Reforms Could Be Strengthened By Following Additional Planning, Communication, and Leadership Practices* (GAO-20-322) (Apr. 2020).

<sup>7</sup> Merit Systems Protection Board, *Issues of Merit Newsletter* (Jan. 2020) ([https://www.mspb.gov/studies/newsletters/Issues\\_of\\_Merit\\_January\\_2020\\_1692810.pdf](https://www.mspb.gov/studies/newsletters/Issues_of_Merit_January_2020_1692810.pdf)).

<sup>8</sup> *Senate Panel Advances Measures to Reskill Feds, Ban Their TikTok Use*, Government Executive (May 12, 2021) (<https://www.govexec.com/workforce/2021/05/senate-panel-advances-measures-reskill-feds-ban-their-tiktok-use/173986/>).

<sup>9</sup> *Inspired to Serve: The Final Report of the National Commission on Military, National, and Public Service*. National Commission on Military, National, and Public Service (Mar. 2020) (<https://inspire2serve.gov/sites/default/files/final-report/Final%20Report.pdf>).

reporting requirements for reskilling programs, which will allow Congress to more closely monitor the progress of these programs.

### III. LEGISLATIVE HISTORY

Senator Kyrsten Sinema (D–AZ) introduced S. 1330, the Facilitating Federal Employee Reskilling Act, on April 22, 2021, with Senator James Lankford (R–OK). The bill was referred to the Committee on Homeland Security and Governmental Affairs on April 22, 2021.

The Committee considered S. 1330 at a business meeting on May 12, 2021. The legislation was ordered reported favorably by voice vote *en bloc* as amended by a Sinema-Lankford Substitute Amendment, as modified. The Amendment made several technical edits to ensure the bill meets the goal of allowing federal employees who complete a reskilling program to maintain their grade in pay in a new position. Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Portman, Johnson, Paul, Lankford, Romney, Scott, and Hawley were present when the bill was ordered reported.

### IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

#### *Section 1. Short title*

This section established the short title of the bill as the “Facilitating Federal Employee Reskilling Act.”

#### *Section 2. Reskilling Federal employees*

Subsection (a) defines the terms “agency,” “appropriate committees of Congress,” “competitive service,” “Director,” “employee,” “excepted service,” and “Federal reskilling program.”

Subsection (b) establishes requirements for Federal reskilling programs. Federal reskilling programs must be implemented in a manner consistent with both the merit system principles set forth under section 2301 of title 5, as well as the bar on prohibited personnel practices provided under section 2302 of title 5. Federal reskilling programs must also include appropriate limitations on implementation under subsection (e) and track outcomes in accordance with the metrics established under subsection (c).

Programs must: provide that participating employees are transferred to new positions which utilize the skills acquired in the program; allow for employees to return to their original position if unsuccessful in a new position; require that employees who successfully complete a reskilling program are able to maintain their original position grade when transferred to a new position; prohibit an employee serving in the excepted service from transferring to a position in the competitive service solely by reason of completion of the reskilling program.

Subsection (c) requires that, within a year of enactment, the Director of the Office of Personnel Management establish reporting requirements for Federal reskilling programs, which shall include: (1) a summary of the program; (2) demographic and employment data for employee applications, participation, and completion of the program; (3) attrition rates of employees who have completed the program; and (4) any other information that the Director determines to be relevant.

Subsection (d) requires that, within three years of enactment, the Comptroller General of the United States shall submit a report to Congress on Federal reskilling programs. This report will include information on recruitment and diversity within Federal reskilling programs, an evaluation of the effectiveness of the program, as well as any recommendations to improve the programs.

Subsection (e) requires that, within a year of enactment, the Director of OPM prescribe regulations for reporting requirements under subsection (c). Under this subsection, the Director may prescribe additional regulations regarding Federal reskilling programs as deemed necessary. The Director must brief congressional committees at least 30 days before any final regulations under this subsection are published.

Subsection (f) clarifies that this legislation does not require the head of an agency to establish a Federal reskilling program.

Subsection (g) requires that any Federal reskilling programs must be carried out using amounts otherwise made available to the relevant agency head.

#### V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

#### VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 9, 2022.*

Hon. GARY C. PETERS,  
*Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed table summarizing estimated budgetary effects and mandates information for some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress.

If you wish further details, we will be pleased to provide them. The CBO staff contact for each estimate is listed on the enclosed table.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

#### SUMMARY ESTIMATES OF LEGISLATION ORDERED REPORTED

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional

authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislation's estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

**ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION**

Bill Number	Title	Status	Last Action	Budget Function	Direct Spending, 2023-2032	Revenues, 2023-2032	Spending Subject to Appropriation, 2023-2027	Pay-As-You-Go Procedures Apply?	Increases On-Budget Deficits Beginning in 2033?	Mandates	Contact
S. 1330	Facilitating Federal Employee Reskilling Act	Ordered reported	05/12/21	800	Between zero and \$500,000	0	Not estimated	Yes	No	No	Matthew Pickford

S. 1330 would direct the Office of Personnel Management to oversee programs across the government aimed at developing skills that would qualify employees for new jobs. Under the bill, at the end of their training, employees could return to their previous job or transfer to a new position at the same grade that uses their newly acquired skills. The Government Accountability Office would be required to report on the program within three years. CBO estimates that enacting S. 1330 would have an insignificant effect on direct spending and no effect on revenues over the 2023-2032 period. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.



VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Because S. 1330 would not repeal or amend any provision of current law, it would make no changes in existing law within the meaning of clauses (a) and (b) of paragraph 12 of rule XXVI of the Standing Rules of the Senate.

