AMENDMENT TO RULES COMM. PRINT. 117–13

OFFERED BY MR. PANETTA OF CALIFORNIA

Add at the end of subtitle D of title XV of division A the following:

SEC. 15. CIVILIAN CYBERSECURITY RESERVE PILOT PROJECT AT UNITED STATES CYBER COMMAND.

(a) Definitions.—In this section:

(1) Appropriate congressional committees.—The term “appropriate congressional committees” means—

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

(B) the Committee on Armed Services of the Senate;

(C) the Committee on Homeland Security of the House of Representatives; and

(D) the Committee on Armed Services of the House of Representatives.

(2) Competitive service.—The term “competitive service” has the meaning given the term in section 2102 of title 5, United States Code.
(3) EXECUTIVE AGENT.—The term “Executive Agent” means the Executive Agent of United States Cyber Command.

(4) SIGNIFICANT INCIDENT.—The term “significant 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) a system described in paragraph (2) or (3) of section 3553(c) of title 44, United States Code.

(5) PART TIME PERMANENT POSITION.—The term “part time permanent position” means a posi-
tion in the competitive service for a period each year of 180 days or less, which may be extended up to two years of consecutive 180 day assignments.

(6) **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) **In General.**—The Executive Agent, in coordination with the Chief Information Officer of the Department of Defense, shall carry out a pilot project to establish a Civilian Cybersecurity Reserve at United States Cyber Command.

(2) **Purpose.**—The purpose of the Civilian Cybersecurity Reserve is to enable United States Cyber Command to effectively respond to significant incidents.

(3) **Alternative Methods.**—Consistent with section 4703 of title 5, United States Code, in carrying out the pilot project required under paragraph (1), the Executive Agent may, subject to approval from the Office of Personnel Management, provide for alternative methods of—

(A) establishing qualifications requirements for, recruitment of, and appointment to positions; and
(B) classifying positions.

(4) APPOINTMENTS.—Under the pilot project required under paragraph (1), upon occurrence of a significant incident, the Executive Agent—

(A) may activate members of the Civilian Cybersecurity Reserve by appointing members of the Civilian Cybersecurity Reserve to part time permanent positions;

(B) shall notify Congress whenever a member is activated under subparagraph (A); and

(C) may appoint not more than 50 members to the Civilian Cybersecurity Reserve under subparagraph (A) at any time.

(5) STATUS AS FEDERAL EMPLOYEES.—An individual appointed under paragraph (4) shall be considered an employee under section 2105 of title 5, United States Code.

(6) ADDITIONAL EMPLOYEES.—Individuals appointed under paragraph (4) shall be in addition to any employees of the United States Cyber Command who provide cybersecurity services.

(7) EMPLOYMENT PROTECTIONS.—The Secretary of Labor shall prescribe such regulations as necessary to ensure the reemployment, continuation of benefits, and non-discrimination in reemployment.
of individuals appointed under paragraph (4), provided that such regulations shall include, at a minimum, those rights and obligations set forth under chapter 43 of title 38, United States Code.

(8) STATUS IN RESERVE.—During the period beginning on the date on which an individual is recruited by United States Cyber Command to serve in the Civilian Cybersecurity Reserve and ending on the date on which the individual is appointed under paragraph (4), and during any period in between any such appointments, the individual shall not be considered an employee under section 2105 of title 5, United States Code.

(e) ELIGIBILITY; APPLICATION AND SELECTION.—

(1) IN GENERAL.—Under the pilot project required under subsection (b)(1), the Executive Agent, in coordination with the Chief Information Officer of the Department of Defense, shall establish criteria for—

(A) individuals to be eligible for the Civilian Cybersecurity Reserve; and

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

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

(3) **PRESCREENING.**—The Executive Agent shall—

(A) conduct a prescreening of each individual prior to appointment under subsection (b)(4) for any topic or product that would create a conflict of interest;

(B) require each individual appointed under subsection (b)(4) to notify the Commander if a potential conflict of interest arises during the appointment; and

(C) require appointees to file public financial disclosure reports (Office of Government Ethics form 278).

(4) **AGREEMENT REQUIRED.**—An individual may become a member of the Civilian Cybersecurity Reserve only if the individual enters into an agreement with the Executive Agent to become such a member, which shall set forth the rights and obligations of the individual and United States Cyber Command.

(5) **EXCEPTION FOR CONTINUING MILITARY SERVICE COMMITMENTS.**—A member of the Selected Reserve under section 10143 of title 10, United
States Code, may not be a member of the Civilian Cybersecurity Reserve.

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

(d) **SECURITY CLEARANCES.**—

(1) **IN GENERAL.**—The Executive Agent shall ensure that all members of the Civilian Cybersecurity Reserve undergo the appropriate personnel vetting and adjudication commensurate with the duties of the position, including a determination of eligibility for access to classified information where a security clearance is necessary, according to applicable policy and authorities.

(2) **COST OF SPONSORING CLEARANCES.**—If a member of the Civilian Cybersecurity Reserve requires a security clearance in order to carry out the duties of the member, United States Cyber Command shall be responsible for the cost of sponsoring the security clearance of the member.

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

(1) **STUDY.**—Not later than 60 days after the Principal Cyber Advisor to the Secretary of Defense, in conjunction with the Under Secretary for Per-
sonnel and Readiness of the Department of Defense and the Principal Cyber Advisors of the military services, submit to the congressional defense committees the evaluation of reserve models tailored to the support of cyberspace operations for the Department required by section 1730 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283), the Executive Agent shall begin a study on the design and implementation of the pilot project required under subsection (b)(1), including—

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

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

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

(D) methods for preventing conflicts of interest or other ethical concerns as a result of participation in the pilot project and details of mitigation efforts to address any conflict of interest concerns;

(E) resources, including additional funding, needed to carry out the pilot project;
(F) possible penalties for individuals who do not respond to activation when called, in accordance with the rights and procedures set forth under title 5, Code of Federal Regulations; and

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

(2) IMPLEMENTATION PLAN.—Not later than one year after beginning the study required under paragraph (1), the Executive Agent shall—

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

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

(3) PROHIBITION.—The Executive Agent may not take any action to begin implementation of the pilot project required under subsection (b)(1) until the Executive Agent fulfills the requirements under paragraph (2).

(f) PROJECT GUIDANCE.—Not later than two years after the date of the enactment of this Act, the Executive Agent shall, in consultation with the Office of Personnel
Management and the Office of Government Ethics, issue
guidance establishing and implementing the pilot project
required under subsection (b)(1).

(g) Briefings and Report.—

(1) Briefings.—Not later than one year after
the date of the enactment of this Act, and every year
thereafter until the date on which the pilot project
required under subsection (b)(1) terminates under
subsection (i), the Commander shall provide to the
appropriate congressional committees a briefing on
activities carried out under the pilot project, includ-
ing—

(A) participation in the Civilian Cybersecu-
rity Reserve, including the number of partici-
pants, the diversity of participants, and any
barriers to recruitment or retention of mem-
bers;

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

(C) whether the Civilian Cybersecurity Re-
serve has been effective in providing additional
capacity to the United States Cyber Command
during significant incidents; and

(D) an evaluation of the eligibility require-
ments for the pilot project.
(2) REPORT.—Not earlier than 180 days and not later than 90 days before the date on which the pilot project required under subsection (b)(1) terminates under subsection (i), the Executive Agent shall submit to the appropriate congressional committees a report and provide a briefing on recommendations relating to the pilot project, including recommendations for—

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

(B) how to attract participants, ensure a diversity of participants, and address any barriers to recruitment or retention of members of the Civilian Cybersecurity Reserve;

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

(D) an evaluation of the eligibility requirements for the pilot project.

(h) EVALUATION.—Not later than three years after the pilot project required under subsection (b)(1) is estab-
lished, the Comptroller General of the United States shall—

(1) conduct a study evaluating the pilot project;

and

(2) submit to the appropriate congressional committees—

(A) a report on the results of the study;

and

(B) a recommendation with respect to whether the pilot project should be modified.

(i) SUNSET.—The pilot project required under subsection (b)(1) shall terminate on the date that is four years after the date on which the pilot project is established.

(j) NO ADDITIONAL FUNDS.—

(1) IN GENERAL.—No additional funds are authorized to be appropriated for the purpose of carrying out this section.

(2) EXISTING AUTHORIZED AMOUNTS.—Funds to carry out this section may, as provided in advance in appropriations Acts, only come from amounts authorized to be appropriated to United States Cyber Command.