

1 *on which all projects that received an award from the*
 2 *Fund are completed, the Technology Modernization*
 3 *Board and all the authorities of subsection (c) shall*
 4 *terminate.*

5 ***TITLE XI—CIVILIAN PERSONNEL***
 6 ***MATTERS***

7 ***Subtitle A—Department of Defense***
 8 ***Matters***

9 ***SEC. 1101. PILOT PROGRAM ON ENHANCED PERSONNEL***
 10 ***MANAGEMENT SYSTEM FOR CYBERSECURITY***
 11 ***AND LEGAL PROFESSIONALS IN THE DEPART-***
 12 ***MENT OF DEFENSE.***

13 ***(a) PILOT PROGRAM REQUIRED.***—*The Secretary of*
 14 *Defense shall carry out within the Department of Defense*
 15 *a pilot program to assess the feasibility and advisability*
 16 *of an enhanced personnel management system in accord-*
 17 *ance with this section for cybersecurity and legal profes-*
 18 *sionals in the Department described in subsection (b) who*
 19 *enter civilian service with the Department on or after Janu-*
 20 *ary 1, 2020.*

21 ***(b) CYBERSECURITY AND LEGAL PROFESSIONALS.***—

22 ***(1) IN GENERAL.***—*The cybersecurity and legal*
 23 *professionals described in this subsection are the fol-*
 24 *lowing:*

1 (A) *Civilian cybersecurity professionals in*
2 *the Department of Defense consisting of civilian*
3 *personnel engaged in or directly supporting*
4 *planning, commanding and controlling, train-*
5 *ing, developing, acquiring, modifying, and oper-*
6 *ating systems and capabilities, and military*
7 *units and intelligence organizations (other than*
8 *those funded by the National Intelligence Pro-*
9 *gram) that are directly engaged in or used for*
10 *offensive and defensive cyber and information*
11 *warfare or intelligence activities in support*
12 *thereof.*

13 (B) *Civilian legal professionals in the De-*
14 *partment occupying legal or similar positions,*
15 *as determined by the Secretary of Defense for*
16 *purposes of the pilot program, that require eligi-*
17 *bility to practice law in a State or territory of*
18 *the United States.*

19 (2) *INAPPLICABILITY TO SES POSITIONS.—The*
20 *pilot program shall not apply to positions within the*
21 *Senior Executive Service under subchapter VIII of*
22 *chapter 53 of title 5, United States Code.*

23 (c) *DIRECT-APPOINTMENT AUTHORITY.—*

24 (1) *INAPPLICABILITY OF GENERAL CIVIL SERVICE*
25 *APPOINTMENT AUTHORITIES TO APPOINTMENTS.—*

1 *Under the pilot program, the Secretary of Defense,*
2 *with respect to the Defense Agencies, and the Sec-*
3 *retary of the military department concerned, with re-*
4 *spect to the military departments, may appoint*
5 *qualified candidates as cybersecurity and legal profes-*
6 *sionals without regard to the provisions of subchapter*
7 *I of chapter 33 of title 5, United States Code.*

8 (2) *APPOINTMENT ON DIRECT-HIRE BASIS.*—*Ap-*
9 *pointments under the pilot program shall be made on*
10 *a direct-hire basis.*

11 (d) *TERM APPOINTMENTS.*—

12 (1) *RENEWABLE TERM APPOINTMENTS.*—*Each*
13 *individual shall serve with the Department of Defense*
14 *as a cybersecurity or legal professional under the pilot*
15 *program pursuant to an initial appointment to serv-*
16 *ice with the Department for a term of not less than*
17 *2 years nor more than 8 years. Any term of appoint-*
18 *ment under the pilot program may be renewed for one*
19 *or more additional terms of not less than 2 years nor*
20 *more than 8 years as provided in subsection (h).*

21 (2) *LENGTH OF TERMS.*—*The length of the term*
22 *of appointment to a position under the pilot program*
23 *shall be prescribed by the Secretary of Defense taking*
24 *into account the national security, mission, and other*
25 *applicable requirements of the position. Positions hav-*

1 *ing identical or similar requirements or terms may be*
2 *grouped into categories for purposes of the pilot pro-*
3 *gram. The Secretary may delegate any authority in*
4 *this paragraph to a commissioned officer of the*
5 *Armed Forces in pay grade O-7 or above or an em-*
6 *ployee in the Department in the Senior Executive*
7 *Service.*

8 *(e) NATURE OF SERVICE UNDER APPOINTMENTS.—*

9 *(1) TREATMENT OF PERSONNEL APPOINTED AS*
10 *“EMPLOYEES”.—Except as otherwise provided by this*
11 *section, individuals serving with the Department of*
12 *Defense as cybersecurity or legal professionals under*
13 *the pilot program pursuant to appointments under*
14 *this section shall be considered employees (as specified*
15 *in section 2105 of title 5, United States Code) for*
16 *purposes of the provisions of title 5, United States*
17 *Code, and other applicable provisions of law, includ-*
18 *ing, in particular, for purposes as follows:*

19 *(A) Eligibility for participation in the Fed-*
20 *eral Employees’ Retirement System under chap-*
21 *ter 84 of title 5, United States Code, subject to*
22 *the provisions of section 8402 of such title and*
23 *the regulations prescribed pursuant to such sec-*
24 *tion.*

1 (B) *Eligibility for enrollment in a health*
2 *benefits plan under chapter 89 of title 5, United*
3 *States Code (commonly referred as the “Federal*
4 *Employees Health Benefits Program”).*

5 (C) *Eligibility for and subject to the em-*
6 *ployment protections of subpart F of part III of*
7 *title 5, United States Code, relating to merit*
8 *principles and protections.*

9 (D) *Eligibility for the protections of chapter*
10 *81, of title 5, United States Code, relating to*
11 *workers compensation.*

12 (2) *SCOPE OF RIGHTS AND BENEFITS.—In ad-*
13 *ministering the pilot program, the Secretary of De-*
14 *fense shall specify, and from time to time update, a*
15 *comprehensive description of the rights and benefits of*
16 *individuals serving with the Department under the*
17 *pilot program pursuant to this subsection and of the*
18 *provisions of law under which such rights and bene-*
19 *fits arise.*

20 (f) *COMPENSATION.—*

21 (1) *BASIC PAY.—Individuals serving with the*
22 *Department of Defense as cybersecurity or legal pro-*
23 *fessionals under the pilot program shall be paid basic*
24 *pay for such service in accordance with a schedule of*

1 *pay prescribed by the Secretary of Defense for pur-*
2 *poses of the pilot program.*

3 (2) *TREATMENT AS BASIC PAY.*—*Basic pay pay-*
4 *able under the pilot program shall be treated for all*
5 *purposes as basic pay paid under the provisions of*
6 *title 5, United States Code.*

7 (3) *PERFORMANCE AWARDS.*—*Individuals serv-*
8 *ing with the Department as cybersecurity or legal*
9 *professionals under the pilot program may be award-*
10 *ed such performance awards for outstanding perform-*
11 *ance as the Secretary shall prescribe for purposes of*
12 *the pilot program. The performance awards may in-*
13 *clude a monetary bonus, time off with pay, or such*
14 *other awards as the Secretary considers appropriate*
15 *for purposes of the pilot program. The award of per-*
16 *formance awards under the pilot program shall based*
17 *in accordance with such policies and requirements as*
18 *the Secretary shall prescribe for purposes of the pilot*
19 *program.*

20 (4) *ADDITIONAL COMPENSATION.*—*Individuals*
21 *servng with the Department as cybersecurity or legal*
22 *professionals under the pilot program may be award-*
23 *ed such additional compensation above basic pay as*
24 *the Secretary (or the designees of the Secretary) con-*
25 *sider appropriate in order to promote the recruitment*

1 *and retention of highly skilled and productive cyberse-*
2 *curity and legal professionals to and with the Depart-*
3 *ment.*

4 *(g) PROBATIONARY PERIOD.—The following terms of*
5 *appointment shall be treated as a probationary period*
6 *under the pilot program:*

7 *(1) The first term of appointment of an indi-*
8 *vidual to service with the Department of Defense as*
9 *a cybersecurity or legal professional, regardless of*
10 *length.*

11 *(2) The first term of appointment of an indi-*
12 *vidual to a supervisory position in the Department as*
13 *a cybersecurity or legal professional, regardless of*
14 *length and regardless of whether or not such term of*
15 *appointment to a supervisory position is the first*
16 *term of appointment of the individual concerned to*
17 *service with the Department as a cybersecurity or*
18 *legal professional.*

19 *(h) RENEWAL OF APPOINTMENTS.—*

20 *(1) IN GENERAL.—The Secretary of Defense shall*
21 *prescribe the conditions for the renewal of appoint-*
22 *ments under the pilot program. The conditions may*
23 *apply to one or more categories of positions, positions*
24 *on a case-by-case basis, or both.*

1 (2) *PARTICULAR CONDITIONS.*—*In prescribing*
2 *conditions for the renewal of appointments under the*
3 *pilot program, the Secretary shall take into account*
4 *the following (in the order specified):*

5 (A) *The necessity for the continuation of the*
6 *position concerned based on mission require-*
7 *ments and other applicable justifications for the*
8 *position.*

9 (B) *The service performance of the indi-*
10 *vidual serving in the position concerned, with*
11 *individuals with satisfactory or better perform-*
12 *ance afforded preference in renewal.*

13 (C) *Input from employees on conditions for*
14 *renewal.*

15 (D) *Applicable private and public sector*
16 *labor market conditions.*

17 (3) *SERVICE PERFORMANCE.*—*The assessment of*
18 *the service performance of an individual under the*
19 *pilot program for purposes of paragraph (2)(B) shall*
20 *consist of an assessment of the ability of the indi-*
21 *vidual to effectively accomplish mission goals for the*
22 *position concerned as determined by the supervisor or*
23 *manager of the individual based on the individual's*
24 *performance evaluations and the knowledge of and re-*
25 *view by such supervisor or manager (developed in*

1 *consultation with the individual) of the individual's*
2 *performance in the position. An individual's tenure of*
3 *service in a position or the Department of Defense*
4 *may not be the primary element of the assessment.*

5 *(i) PROFESSIONAL DEVELOPMENT.—The pilot pro-*
6 *gram shall provide for the professional development of indi-*
7 *viduals serving with the Department of Defense as cyberse-*
8 *curity and legal professionals under the pilot program in*
9 *a manner that—*

10 *(1) creates opportunities for education, training,*
11 *and career-broadening experiences, and for experi-*
12 *mental opportunities in other organizations within*
13 *and outside the Federal Government; and*

14 *(2) reflects the differentiated needs of personnel*
15 *at different stages of their careers.*

16 *(j) SABBATICALS.—*

17 *(1) IN GENERAL.—The pilot program shall pro-*
18 *vide for an individual who is in a successive term*
19 *after the first 8 years with the Department of Defense*
20 *as a cybersecurity or legal professional under the pilot*
21 *program to take, at the election of the individual, a*
22 *paid or unpaid sabbatical from service with the De-*
23 *partment for professional development or education*
24 *purposes. The length of a sabbatical shall be any*
25 *length not less than 6 months nor more than 1 year*

1 *(unless a different period is approved by the Sec-*
2 *retary of the military department or head of the orga-*
3 *nization or element of the Department concerned for*
4 *purposes of this subsection). The purpose of any sab-*
5 *batical shall be subject to advance approval by the or-*
6 *ganization or element in the Department in which the*
7 *individual is currently performing service. The taking*
8 *of a sabbatical shall be contingent on the written*
9 *agreement of the individual concerned to serve with*
10 *the Department for an appropriate length of time at*
11 *the conclusion of the term of appointment in which*
12 *the sabbatical commences, with the period of such*
13 *service to be in addition to the period of such term*
14 *of appointment.*

15 (2) *NUMBER OF SABBATICALS.*—*An individual*
16 *may take more than one sabbatical under this sub-*
17 *section.*

18 (3) *REPAYMENT.*—*Except as provided in para-*
19 *graph (4), an individual who fails to satisfy a writ-*
20 *ten agreement executed under paragraph (1) with re-*
21 *spect to a sabbatical shall repay the Department an*
22 *amount equal to any pay, allowances, and other bene-*
23 *fits received by the individual from the Department*
24 *during the period of the sabbatical.*

1 (4) *WAIVER OF REPAYMENT.*—*An agreement*
2 *under paragraph (1) may include such conditions for*
3 *the waiver of repayment otherwise required under*
4 *paragraph (3) for failure to satisfy such agreement as*
5 *the Secretary specifies in such agreement.*

6 (k) *REGULATIONS.*—*The Secretary of Defense shall ad-*
7 *minister the pilot program under regulations prescribed by*
8 *the Secretary for purposes of the pilot program.*

9 (l) *TERMINATION.*—

10 (1) *IN GENERAL.*—*The authority of the Secretary*
11 *of Defense to appoint individuals for service with the*
12 *Department of Defense as cybersecurity or legal pro-*
13 *fessionals under the pilot program shall expire on De-*
14 *cember 31, 2029.*

15 (2) *EFFECT ON EXISTING APPOINTMENTS.*—*The*
16 *termination of authority in paragraph (1) shall not*
17 *be construed to terminate or otherwise affect any ap-*
18 *pointment made under this section before December*
19 *31, 2029, that remains valid as of that date.*

20 (m) *IMPLEMENTATION.*—

21 (1) *INTERIM FINAL RULE.*—*Not later than one*
22 *year after the date of the enactment of this Act, the*
23 *Secretary of Defense shall prescribe an interim final*
24 *rule to implement the pilot program.*

1 (2) *FINAL RULE.*—Not later than 180 days after
2 prescribing the interim final rule under paragraph
3 (1) and considering public comments with respect to
4 such interim final rule, the Secretary shall prescribe
5 a final rule to implement the pilot program.

6 (3) *OBJECTIVES.*—The regulations prescribed
7 under paragraphs (1) and (2) shall accomplish the
8 objectives set forth in subsections (a) through (j) and
9 otherwise ensure flexibility and expedited appoint-
10 ment of cybersecurity and legal professionals in the
11 Department of Defense under the pilot program.

12 (n) *REPORTS.*—

13 (1) *REPORTS REQUIRED.*—Not later than Janu-
14 ary 30 of each of 2022, 2025, and 2028, the Secretary
15 of Defense shall submit to the appropriate committees
16 of Congress a report on the carrying out of the pilot
17 program. Each report shall include the following:

18 (A) A description and assessment of the car-
19 rying out of the pilot program during the period
20 since the commencement of the pilot program or
21 the previous submittal of a report under this
22 subsection, as applicable.

23 (B) A description and assessment of the suc-
24 cesses in and impediments to carrying out the
25 pilot program system during such period.

1 (C) *Such recommendations as the Secretary*
2 *considers appropriate for legislative action to*
3 *improve the pilot program and to otherwise im-*
4 *prove civilian personnel management of cyberse-*
5 *curity and legal professionals by the Department*
6 *of Defense.*

7 (D) *In the case of the report submitted in*
8 *2028, an assessment and recommendations by*
9 *the Secretary on whether to make the pilot pro-*
10 *gram permanent.*

11 (2) *APPROPRIATE COMMITTEES OF CONGRESS*
12 *DEFINED.—In this subsection, the term “appropriate*
13 *committees of Congress” means—*

14 (A) *the Committee on Armed Services and*
15 *the Committee on Homeland Security and Gov-*
16 *ernmental Affairs of the Senate; and*

17 (B) *the Committee on Armed Services and*
18 *the Committee on Oversight and Government Re-*
19 *form of the House of Representatives.*

1 **SEC. 1102. INCLUSION OF STRATEGIC CAPABILITIES OFFICE**
2 **AND DEFENSE INNOVATION UNIT EXPERI-**
3 **MENTAL OF THE DEPARTMENT OF DEFENSE**
4 **IN PERSONNEL MANAGEMENT AUTHORITY TO**
5 **ATTRACT EXPERTS IN SCIENCE AND ENGI-**
6 **NEERING.**

7 (a) *IN GENERAL.*—Subsection (a) of section 1599h of
8 title 10, United States Code, is amended by adding at the
9 end the following new paragraphs:

10 “(4) *STRATEGIC CAPABILITIES OFFICE.*—The Di-
11 rector of the Strategic Capabilities Office may carry
12 out a program of personnel management authority
13 provided in subsection (b) in order to facilitate re-
14 cruitment of eminent experts in science or engineering
15 for the Office.

16 “(5) *DIUx.*—The Director of the Defense Innova-
17 tion Unit Experimental may carry out a program of
18 personnel management authority provided in sub-
19 section (b) in order to facilitate recruitment of emi-
20 nent experts in science or engineering for the Unit.”.

21 (b) *SCOPE OF APPOINTMENT AUTHORITY.*—Subsection
22 (b)(1) of such section is amended—

23 (1) in subparagraph (B), by striking “and” at
24 the end; and

25 (2) by adding at the end the following new sub-
26 paragraphs:

1 “(D) in the case of the Strategic Capabili-
2 ties Office, appoint scientists and engineers to a
3 total of not more than 5 scientific and engineer-
4 ing positions in the Office; and

5 “(E) in the case of the Defense Innovation
6 Unit Experimental, appoint scientists and engi-
7 neers to a total of not more than 5 scientific and
8 engineering positions in the Unit;”.

9 (c) *EXTENSION OF TERMS OF APPOINTMENT.*—Sub-
10 section (c)(2) of such section is amended by striking “or
11 the Office of Operational Test and Evaluation” and insert-
12 ing “the Office of Operational Test and Evaluation, the
13 Strategic Capabilities Office, or the Defense Innovation
14 Unit Experimental”.

15 **SEC. 1103. PERMANENT AUTHORITY FOR DEMONSTRATION**
16 **PROJECTS RELATING TO ACQUISITION PER-**
17 **SONNEL MANAGEMENT POLICIES AND PRO-**
18 **CEDURES.**

19 (a) *PERMANENT AUTHORITY.*—Section 1762 of title
20 10, United States Code, is amended by striking subsections
21 (g) and (h).

22 (b) *SCOPE OF AUTHORITY.*—Subsection (a) of such sec-
23 tion is amended by striking “COMMENCEMENT.—” and all
24 that follows through “a demonstration project” and insert-



National Security Archive,
Suite 701, Gelman Library, The George Washington University,
2130 H Street, NW, Washington, D.C., 20037,
Phone: 202/994-7000, Fax: 202/994-7005, nsarchiv@gwu.edu