

112TH CONGRESS  
1ST SESSION

# S. 1628

To provide for improvements in the Federal hiring process, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2011

Mr. AKAKA (for himself, Mr. CARPER, Mr. CARDIN, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To provide for improvements in the Federal hiring process,  
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 Hiring Process  
5 Improvement Act of 2011”.

6 **SEC. 2. DEFINITION.**

7 In this Act, the term “agency”—

8 (1) means an Executive agency as defined  
9 under section 105 of title 5, United States Code;  
10 and

1           (2) shall not include the Government Account-  
2           ability Office.

3 **SEC. 3. STRATEGIC WORKFORCE PLAN.**

4           (a) IN GENERAL.—

5           (1) DEVELOPMENT OF PLAN.—Not later than  
6           180 days after the date of enactment of this Act and  
7           in every subsequent year, the head of each agency,  
8           in consultation with the Office of Personnel Manage-  
9           ment and the Office of Management and Budget,  
10          shall develop a strategic workforce plan as part of  
11          the agency performance plan required under section  
12          1115 of title 31, United States Code, to include—

13                   (A) hiring projections, including occupation  
14                   and grade level;

15                   (B) long-term and short-term strategic  
16                   human capital planning to address critical skills  
17                   deficiencies;

18                   (C) recruitment strategies to attract highly  
19                   qualified candidates from diverse backgrounds;

20                   (D) streamlining the hiring process to con-  
21                   form with the provisions in this Act; and

22                   (E) a specific analysis of the contractor  
23                   workforce, whether the balance between work  
24                   being performed by the Federal workforce and  
25                   the contractor workforce should be adjusted,

1           and the capacity of the agency to manage em-  
2           ployees who are not Federal employees and are  
3           doing the work of the Government.

4           (2) INCLUSION IN PERFORMANCE PLAN.—Sec-  
5           tion 1115(a) of title 31, United States Code, is  
6           amended—

7                   (A) in paragraph (5), by striking “and”  
8                   after the semicolon;

9                   (B) in paragraph (6), by striking the pe-  
10                  riod and inserting “; and”; and

11                  (C) by adding at the end the following:

12                   “(7) include the strategic workforce plan devel-  
13                  oped under section 3 of the Federal Hiring Process  
14                  Improvement Act of 2011.”.

15           (b) HIRING PROJECTIONS.—Agencies shall make hir-  
16           ing projections made under strategic workforce plans  
17           available to the public, including on agency Web sites.

18           (c) SUBMISSION TO THE OFFICE OF PERSONNEL  
19           MANAGEMENT.—Each agency strategic workforce plan  
20           shall be submitted to the Office of Personnel Management.

21           (d) GOVERNMENTWIDE STRATEGIC WORKFORCE  
22           PLAN.—Based on the agency plans submitted under sub-  
23           section (a), the Office of Personnel Management shall—

24                   (1) develop a governmentwide strategic work-  
25                  force plan updated at least annually to include the

1 contents described under subsection (a)(1) on a gov-  
2 ernmentwide basis; and

3 (2) make such plan available to the President,  
4 Congress, and the public.

5 **SEC. 4. FEDERAL ANNOUNCEMENTS OF VACANT POSI-**  
6 **TIONS.**

7 (a) **TARGETED ANNOUNCEMENTS.**—In consultation  
8 with the Chief Human Capital Officers Council, the head  
9 of each agency shall—

10 (1) take steps necessary to identify highly quali-  
11 fied applicant pools with diverse backgrounds before  
12 posting announcements of vacant positions;

13 (2) seek to develop relationships with targeted  
14 and diverse applicant pools to encourage applications  
15 for high-quality applicants; and

16 (3) post announcements of vacant positions for  
17 a reasonable period of time.

18 (b) **PUBLIC NOTICE REQUIREMENTS.**—The require-  
19 ments of subsection (a) shall not supersede public notice  
20 requirements.

21 (c) **PLAIN WRITING REQUIREMENT.**—

22 (1) **DEFINITION.**—In this subsection, the term  
23 “plain writing” has the meaning given under section  
24 3 of the Plain Writing Act of 2010 (5 U.S.C. 301  
25 note).



1           (3) not require lengthy writing requirements  
2 such as knowledge, skills, and ability essays as part  
3 of an initial application;

4           (4) allow applicants to submit application mate-  
5 rials in a variety of formats, including word proc-  
6 essing documents and portable document format;

7           (5) not require any applicant to provide a So-  
8 cial Security number or any other personal identi-  
9 fying information unnecessary for the initial review  
10 of an applicant for a position;

11          (6) not require the submission of additional ma-  
12 terial in support of an application, such as edu-  
13 cational transcript, proof of veterans status, and  
14 professional certifications, unless necessary to com-  
15 plete the hiring process;

16          (7) provide for a valid, position-related assess-  
17 ment process to help identify the best candidates for  
18 the position to be filled and which does not place an  
19 unreasonable burden upon applicants;

20          (8) ensure that applicants are given a reason-  
21 able amount of time after the closing date of the an-  
22 nouncement of a vacant position to provide addi-  
23 tional necessary information; and

24          (9) include the hiring manager in all parts of  
25 the hiring process, including—

- 1 (A) targeted recruitment;
- 2 (B) drafting the announcement of the va-
- 3 cant position;
- 4 (C) review of the initial applications;
- 5 (D) interviewing the applicants; and
- 6 (E) the final decisionmaking process.

7 (b) NOTIFICATION REQUIREMENTS.—

8 (1) IN GENERAL.—In consultation with the  
9 Chief Human Capital Officers Council, the head of  
10 each agency shall ensure there are mechanisms  
11 under which each applicant for a vacant position  
12 shall receive timely notification of the status of each  
13 application or provide the applicant the ability to  
14 check on the status of each application.

15 (2) NOTIFICATION.—A timely notification to an  
16 applicant under this subsection shall be made  
17 upon—

- 18 (A) receipt of an application by the em-
- 19 ploying agency;
- 20 (B) determination of the qualification of
- 21 the applicant for the position;
- 22 (C) referral to the selecting official, or
- 23 when a decision is made not to refer the appli-
- 24 cant; and
- 25 (D) selection of an applicant.

1           (3) APPLICANTS NOT SELECTED.—The agency  
 2           shall notify any applicant who is not offered employ-  
 3           ment that the applicable position is not open, not  
 4           later than 10 business days after the date on  
 5           which—

6                   (A) the selected candidate has accepted an  
 7                   offer of employment; or

8                   (B) the announcement of the vacant posi-  
 9                   tion has been cancelled.

10 **SEC. 6. AGENCY HIRING PROCEDURES.**

11           (a) ELIMINATION OF THE RULE OF THREE; MUL-  
 12           TIPLE SELECTIONS FROM ONE CERTIFICATE.—

13                   (1) IN GENERAL.—Chapter 33 of title 5, United  
 14                   States Code, is amended by striking section 3317  
 15                   and inserting the following:

16 **“§ 3317. Competitive service; certification and selec-**  
 17 **tion using numerical ratings**

18           “(a) CERTIFICATIONS.—The Office of Personnel  
 19           Management, or an agency to which the Office has dele-  
 20           gated examining authority under section 1104(a)(2), shall  
 21           certify a sufficient number of names from the top of the  
 22           appropriate register or list of eligibles for an appointing  
 23           authority who has requested a certificate of eligibles to  
 24           consider when filling a position in the competitive service.

25           “(b) SELECTIONS.—



1           “(1) IN GENERAL.—An appointing authority  
2 shall select for appointment from the eligibles avail-  
3 able for appointment on the certificate provided  
4 under subsection (a), unless objection to one or more  
5 of the individuals certified is made to, and sustained  
6 by, the Office of Personnel Management or the rel-  
7 evant agency for proper and adequate reason.

8           “(2) OTHER APPOINTING AUTHORITIES.—Not  
9 later than 240 days after the date of issuance of a  
10 certificate under subsection (a), other appointing au-  
11 thorities may select from that certificate for similar  
12 positions in the same occupational series and at the  
13 same grade level without any additional posting  
14 under section 3327.

15           “(c) PREFERENCE ELIGIBLES.—

16           “(1) PASS OVERS.—

17           “(A) IN GENERAL.—If an appointing au-  
18 thority proposes to pass over a preference eligi-  
19 ble on a certificate in order to select an indi-  
20 vidual who is not a preference eligible, that ap-  
21 pointing authority shall submit a statement of  
22 reasons to the Office of Personnel Management  
23 for passing over the preference eligible.

24           “(B) REASONS FOR PASS OVERS.—

1           “(i) RECORD.—The Office shall make  
2           the reasons submitted by the appointing  
3           authority part of the record of the pref-  
4           erence eligible and may require the submis-  
5           sion of more detailed information from the  
6           appointing authority in support of the  
7           passing over of the preference eligible.

8           “(ii) REVIEW.—The Office shall—

9                   “(I) review the reasons submitted  
10                  by the appointing authority; and

11                  “(II) determine the sufficiency or  
12                  insufficiency of the reasons, taking  
13                  into account any response received by  
14                  the Office from the preference eligible  
15                  based on the reasons made available  
16                  under or paragraph (3).

17           “(C) FINDINGS.—After the Office has  
18           completed the review under subparagraph (B)  
19           of the proposed pass over, the Office shall send  
20           its findings to the appointing authority and to  
21           the preference eligible. The appointing authority  
22           shall comply with the findings of the Office.

23           “(2) PREFERENCE ELIGIBLES.—In the case of  
24           a preference eligible not described under paragraph  
25           (3)(A), upon the request of that preference eligible

1 (or the representative of that preference eligible) the  
2 Office of Personnel Management shall provide a  
3 copy of—

4 “(A) the reasons for the proposed pass  
5 over submitted by the appointing authority  
6 under paragraph (1)(A); and

7 “(B) the findings of the Office under para-  
8 graph (1)(C).

9 “(3) PREFERENCE ELIGIBLES WITH CERTAIN  
10 DISABILITIES.—

11 “(A) NOTIFICATIONS.—In the case of a  
12 preference eligible described under section  
13 2108(3)(C) who has a compensable service-con-  
14 nected disability of 30 percent or more, the ap-  
15 pointing authority shall provide notification to  
16 the preference eligible of—

17 “(i) the proposed pass over;

18 “(ii) the reasons for the proposed pass  
19 over; and

20 “(iii) the right of the preference eligi-  
21 ble to respond to those reasons to the Of-  
22 fice of Personnel Management or the rel-  
23 evant agency not later than 15 days after  
24 the date of the receipt of the notification.

1           “(B) TIMING OF NOTIFICATIONS.—The ap-  
2           pointing authority shall provide notification to  
3           the preference eligible under subparagraph (A)  
4           at the same time the appointing authority pro-  
5           vides notification to the Office of Personnel  
6           Management under paragraph (1).

7           “(C) DEMONSTRATION OF NOTIFICA-  
8           TIONS.—Before completing the review under  
9           paragraph (1) with respect to a preference eligi-  
10          ble described under section 2108(3)(C) who has  
11          a compensable service-connected disability of 30  
12          percent or more, the Office shall require a dem-  
13          onstration by the appointing authority that a  
14          timely notification under subparagraph (A) was  
15          sent to the last known address of the preference  
16          eligible.

17          “(4) NONDELEGATION OF FUNCTIONS.—In the  
18          case of a preference eligible described under para-  
19          graph (3), the functions of the Office of Personnel  
20          Management under this subsection may not be dele-  
21          gated.

22          “(d) REEMPLOYMENT.—If the names of preference  
23          eligibles are on a reemployment list appropriate for the  
24          position to be filled, a nominating or appointing authority  
25          may appoint from a register of eligibles established after

1 examination only an individual who qualifies as a pref-  
2 erence eligible under section 2108(3) (C) through (G).

3 “(e) REGULATIONS.—The Office of Personnel Man-  
4 agement shall prescribe regulations to carry out this sec-  
5 tion, including regulations for the establishment of mecha-  
6 nisms, such as advanced determination of score, for identi-  
7 fying the eligibles who will be considered for appoint-  
8 ment.”.

9 (2) COMPETITIVE SERVICE; SELECTION FROM  
10 CERTIFICATES.—

11 (A) REPEAL.—Section 3318 of title 5,  
12 United States Code, is repealed.

13 (B) TECHNICAL AND CONFORMING AMEND-  
14 MENT.—Section 3304(a)(3) of title 5, United  
15 States Code, is amended by striking “3318”  
16 and inserting “3317”.

17 (3) COMPETITIVE SERVICE; SELECTION USING  
18 CATEGORY RATING.—Section 3319 of title 5, United  
19 States Code, is amended—

20 (A) by striking the section heading and in-  
21 serting the following:

1 **“§ 3319. Competitive service; selection using category**  
 2 **rating”;**

3 (B) in subsection (e)(2) by striking “sec-  
 4 tion 3317(b) or 3318(b)” and inserting “section  
 5 3317(c)”;

6 (C) by redesignating subsections (d) and  
 7 (e) as subsections (e) and (f), respectively; and

8 (D) by inserting after subsection (c) the  
 9 following:

10 “(d) Not later than 240 days after the date a certifi-  
 11 cate under this section is issued, other appointing authori-  
 12 ties may select from that certificate for similar positions  
 13 in the same occupational series and at the same grade  
 14 level in accordance with subsection (c) without any addi-  
 15 tional posting under section 3327.”.

16 (4) EXCEPTED SERVICE; GOVERNMENT OF THE  
 17 DISTRICT OF COLUMBIA; SELECTION.—Section 3320  
 18 of title 5, United States Code, is amended by strik-  
 19 ing “sections 3308–3318” and inserting “sections  
 20 3308 through 3319”.

21 (b) REPORTING AND POSTING EMPLOYMENT OPPOR-  
 22 TUNITIES.—

23 (1) GOVERNMENTWIDE LIST OF VACANT POSI-  
 24 TIONS.—Section 3330 of title 5, United States Code,  
 25 is repealed.

1           (2) CIVIL SERVICE POSITIONS LIST.—Chapter  
2           33 of title 5, United States Code, is amended by  
3           striking section 3327 and inserting the following:

4   **“§ 3327. Civil service positions list**

5           “(a) DEFINITIONS.—In this section—

6                   “(1) the term ‘agency’—

7                           “(A) means an Executive agency as de-  
8                           fined under section 105; and

9                           “(B) includes the Government Printing Of-  
10                          fice; and

11                   “(2) the term ‘covered position’ means a posi-  
12                   tion—

13                           “(A) in the competitive service (other than  
14                           a position established for a period not exceeding  
15                           18 months); or

16                           “(B) a position in the Senior Executive  
17                          Service.

18           “(b) VACANT COVERED POSITIONS.—Subject to reg-  
19           ulations prescribed under subsection (e), each agency shall  
20           promptly provide notification to the Office of Personnel  
21           Management of vacant covered positions in the agency for  
22           which the agency seeks applications from individuals who  
23           are not employees of that agency.

24           “(c) LIST.—

1           “(1) ESTABLISHMENT AND MAINTENANCE.—  
2           The Office of Personnel Management shall establish  
3           and maintain a comprehensive list of vacant posi-  
4           tions within each agency for which applications are  
5           currently being accepted or will soon be accepted.

6           “(2) CONTENTS AND AVAILABILITY.—The list  
7           established and maintained under this subsection  
8           shall—

9                   “(A) include—

10                           “(i) a brief description of each posi-  
11                           tion, including the title, expected duration,  
12                           location, and rate of pay of the position;

13                           “(ii) the period during which applica-  
14                           tions will be accepted;

15                           “(iii) application procedures, including  
16                           who may apply, and procedures for obtain-  
17                           ing additional information;

18                           “(iv) the conditions under which ap-  
19                           plicants may be considered; and

20                           “(v) any other information the Office  
21                           considers appropriate; and

22                           “(B) be made available to the public, in  
23                           such form as the Office requires in regulations  
24                           prescribed under subsection (e).

25           “(d) FEES.—



1           “(1) CHARGING.—The Office of Personnel  
2 Management may charge fees to agencies for serv-  
3 ices provided under this section and for related Fed-  
4 eral employment information.

5           “(2) RETAINING AND USE.—The Office shall  
6 retain fees collected under this subsection to pay the  
7 costs of providing the services and information.

8           “(e) REGULATIONS.—The Office of Personnel Man-  
9 agement shall prescribe regulations to carry out this sec-  
10 tion.”.

11         (c) TECHNICAL AND CONFORMING AMENDMENT.—  
12 The table of sections for chapter 33 of title 5, United  
13 States Code, is amended by striking the items relating to  
14 sections 3317 through 3330 and inserting the following:

“3317. Competitive service; certification and selection using numerical ratings.

“**【3318. Repealed.】**

“3319. Competitive service; selection using category rating.

“3320. Excepted service; government of the District of Columbia; selection.

“3321. Competitive service; probationary period.

“**【3322. Repealed.】**

“3323. Automatic separations; reappointment; reemployment of annuitants.

“3324. Appointments to positions classified above GS-15.

“3325. Appointments to scientific and professional positions.

“3326. Appointments of retired members of the armed forces to positions in the  
Department of Defense.

“3327. Civil service positions list.

“3328. Selective Service registration.

“3329. Appointments of military reserve technicians to positions in the competi-  
tive service.

“**【3330. Repealed.】**”.

15 **SEC. 7. TRAINING.**

16         Not later than 120 days after the date of enactment  
17 of this Act—

1           (1) in consultation with the Chief Human Cap-  
2           ital Officers Council, the Office of Personnel Man-  
3           agement shall develop and notify agencies of a train-  
4           ing program for human resources professionals to  
5           implement the requirements of this Act; and

6           (2) each agency shall develop and submit to the  
7           Office of Personnel Management a plan to imple-  
8           ment the training program.

9   **SEC. 8. REDUCTION IN THE LENGTH OF THE HIRING PROC-**  
10                                   **ESS.**

11           (a) AGENCY PLANS.—Unless the Office of Personnel  
12           Management certifies an agency already has a plan in ef-  
13           fect, the head of each agency shall develop a plan to reduce  
14           the length of the hiring process, which shall include an  
15           analysis of the current hiring process performed in accord-  
16           ance with standards established by the Office of Personnel  
17           Management.

18           (b) REQUIREMENTS.—To the extent practical, each  
19           agency shall fill identified vacancies not later than an aver-  
20           age of 80 calendar days after the date of identification  
21           of the vacancy.

22           (c) REPORTS.—Each agency shall submit an annual  
23           report to Congress on the average period of time required  
24           to fill each position, and whether such positions are can-  
25           celled or reopened.

1 **SEC. 9. MEASURES OF FEDERAL HIRING EFFECTIVENESS.**

2 (a) IN GENERAL.—Each agency shall measure and  
3 collect information on indicators of hiring effectiveness re-  
4 lating to—

5 (1) recruiting and hiring, including the—

6 (A) ability to reach and recruit highly  
7 qualified talent from diverse talent pools;

8 (B) use and impact of each hiring author-  
9 ity and flexibility to recruit most qualified ap-  
10 plicants, including the use of student intern-  
11 ships and scholarship programs as a talent pool  
12 for permanent hires;

13 (C) use and impact of special hiring au-  
14 thorities and flexibilities to recruit diverse can-  
15 didates, including veteran, minority, and dis-  
16 abled candidates;

17 (D) age, educational level, and source of  
18 applicants;

19 (E) length of time between the time a posi-  
20 tion is advertised and the time a first offer of  
21 employment is made;

22 (F) length of time between the time a first  
23 offer of employment for a position is made and  
24 the time a new hire starts in that position;

25 (G) number of internal and external appli-  
26 cants for Federal positions;

1 (H) number of positions filled compared to  
2 the specific number in the annual workforce  
3 plan of the agency, with specific reference to  
4 mission-critical occupations or areas of critical  
5 shortage deficiencies; and

6 (I) number of offers accepted compared to  
7 the number of offers made for permanent posi-  
8 tions;

9 (2) hiring manager assessment, including—

10 (A) manager satisfaction with the quality  
11 of the applicants interviewed and new hires;

12 (B) manager satisfaction with the match  
13 between the skills of newly hired individuals  
14 and the needs of the agency;

15 (C) manager satisfaction with the hiring  
16 process and hiring outcomes;

17 (D) any mission-critical deficiency closed  
18 by new hires and the connection between mis-  
19 sion-critical deficiencies and annual agency per-  
20 formance; and

21 (E) manager satisfaction with the length of  
22 time to fill a position;

23 (3) applicant satisfaction with the hiring proc-  
24 ess, including—

1 (A) the clarity of the announcement of the  
2 vacant position;

3 (B) the reasons for withdrawal of any ap-  
4 plication;

5 (C) the user-friendliness of the application  
6 process;

7 (D) communication regarding status of ap-  
8 plication; and

9 (E) the timeliness of hiring decision; and

10 (4) new hire assessment, including—

11 (A) new hire satisfaction with the hiring  
12 process, including—

13 (i) the clarity of the announcement of  
14 the vacant position;

15 (ii) the user-friendliness of the appli-  
16 cation process;

17 (iii) communication regarding status  
18 of application; and

19 (iv) the timeliness of hiring decision;

20 (B) satisfaction with the onboarding expe-  
21 rience, including—

22 (i) the timeliness of onboarding after  
23 the hiring decision;

24 (ii) the welcoming and orientation  
25 processes; and

1 (iii) being provided with timely and  
2 useful new employee information and as-  
3 sistance;

4 (C) new hire attrition;

5 (D) investment in training and develop-  
6 ment for employees during their first year of  
7 employment; and

8 (E) other indicators and measures as re-  
9 quired by the Office of Personnel Management.

10 (b) REPORTS.—

11 (1) IN GENERAL.—Each agency shall submit on  
12 an annual basis and in accordance with regulations  
13 prescribed under subsection (c) the information col-  
14 lected under subsection (a) to the Office of Per-  
15 sonnel Management.

16 (2) AVAILABILITY OF RECRUITING AND HIRING  
17 INFORMATION.—Each year the Office of Personnel  
18 Management shall provide the information submitted  
19 under paragraph (1) in a consistent format to allow  
20 for a comparison of hiring effectiveness and experi-  
21 ence across demographic groups and agencies to—

22 (A) Congress before that information is  
23 made publicly available; and

1                   (B) the public on the Web site of the Of-  
2                   fice not later than 90 days after the submission  
3                   of the information under paragraph (1).

4           (c) REGULATIONS.—Not later than 180 days after  
5 the date of enactment of this Act, the Director of the Of-  
6 fice of Personnel Management shall prescribe regulations  
7 directing the methodology, timing, and reporting of the  
8 data described in subsection (a).

9 **SEC. 10. REGULATIONS.**

10           (a) IN GENERAL.—Except as provided under section  
11 9(c), not later than 120 days after the date of enactment  
12 of this Act, the Director of the Office of Personnel Man-  
13 agement shall prescribe regulations as necessary to carry  
14 out this Act.

15           (b) CONSULTATION.—The Director of the Office of  
16 Personnel Management shall consult the Chief Human  
17 Capital Officers Council in the development of regulations  
18 under this section.

○