

117TH CONGRESS
1ST SESSION

S. 3095

To address Federal employees who comply with Executive Order 14043,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 28, 2021

Ms. LUMMIS (for herself, Mr. MARSHALL, Mrs. HYDE-SMITH, Mr. ROUNDS,
Mr. SCOTT of Florida, Mrs. BLACKBURN, and Mr. BARRASSO) introduced
the following bill; which was read twice and referred to the Committee
on Homeland Security and Governmental Affairs

A BILL

To address Federal employees who comply with Executive
Order 14043, 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 “Having Employees Re-
5 turn to Duty Act of 2021” or the “HERD Act of 2021”.

6 **SEC. 2. EXECUTIVE ORDER 14043.**

7 (a) DEFINITIONS.—In this section—

8 (1) the terms “agency” and “employee” have
9 the meanings given the terms in section 3 of the Ex-

1 ecutive Order, except that the term “agency” does
2 not include the Department of Defense;

3 (2) the term “covered employee” means an em-
4 ployee who has complied with the requirements of
5 the Executive Order; and

6 (3) the term “Executive Order” means Execu-
7 tive Order 14043 (86 Fed. Reg. 50989; relating to
8 requiring Coronavirus Disease 2019 vaccination for
9 Federal employees).

10 (b) REQUIREMENT.—

11 (1) IN GENERAL.—Subject to paragraphs (2)
12 and (3), beginning on the date that is 60 days after
13 the date of enactment of this Act, the head of each
14 agency shall, with respect to each covered employee
15 employed by the agency, require the covered em-
16 ployee to work from the duty station of the covered
17 employee, and to work the hours worked by the cov-
18 ered employee, as of February 15, 2020.

19 (2) NEWLY HIRED EMPLOYEES.—If a covered
20 employee was not employed by the applicable agency
21 as of February 15, 2020, the requirements under
22 paragraph (1) shall apply to the covered employee
23 with respect to the duty station and hours of the in-
24 dividual who occupied the position of the covered
25 employee, as of that date.

1 (3) SIGNIFICANT COMMUNITY SPREAD.—The
2 head of an agency may implement different policies
3 than, or supplemental policies to, the requirements
4 under paragraph (1), including by requiring social
5 distancing at a particular work site, if the agency
6 head finds that—

7 (A) there is substantial transmission of
8 COVID–19 within a community in which the
9 requirements of that paragraph would otherwise
10 be carried out, as determined by the Centers for
11 Disease Control and Prevention; and

12 (B) implementing those different or sup-
13 plemental policies will not degrade the level of
14 service that the agency provides to the public.

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