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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Having Employees Return to Duty Act of 2021” or the “HERD Act of 2021”.

SEC. 2. EXECUTIVE ORDER 14043.
(a) DEFINITIONS.—In this section—
(1) the terms “agency” and “employee” have the meanings given the terms in section 3 of the Ex-
Executive Order, except that the term “agency” does not include the Department of Defense;

(2) the term “covered employee” means an employee who has complied with the requirements of the Executive Order; and

(3) the term “Executive Order” means Executive Order 14043 (86 Fed. Reg. 50989; relating to requiring Coronavirus Disease 2019 vaccination for Federal employees).

(b) Requirement.—

(1) In general.—Subject to paragraphs (2) and (3), beginning on the date that is 60 days after the date of enactment of this Act, the head of each agency shall, with respect to each covered employee employed by the agency, require the covered employee to work from the duty station of the covered employee, and to work the hours worked by the covered employee, as of February 15, 2020.

(2) Newly hired employees.—If a covered employee was not employed by the applicable agency as of February 15, 2020, the requirements under paragraph (1) shall apply to the covered employee with respect to the duty station and hours of the individual who occupied the position of the covered employee, as of that date.
(3) **SIGNIFICANT COMMUNITY SPREAD.**—The head of an agency may implement different policies than, or supplemental policies to, the requirements under paragraph (1), including by requiring social distancing at a particular work site, if the agency head finds that—

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

(B) implementing those different or supplemental policies will not degrade the level of service that the agency provides to the public.