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2D SESSION

H. R. 6967

IN THE SENATE OF THE UNITED STATES

OCTOBER 11, 2022

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

To implement merit-based reforms to the civil service hiring system that replace degree-based hiring with skills- and competency-based hiring, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Chance to Compete
3 Act of 2022”.

4 **SEC. 2. DEFINITIONS.**

5 (a) TERMS DEFINED IN SECTION 3304 OF TITLE 5,
6 UNITED STATES CODE.—In this Act, the terms “agency”,
7 “Director”, “examining agency”, “Office”, “subject mat-
8 ter expert”, and “technical assessment” have the mean-
9 ings given those terms in subsection (c)(1) of section 3304
10 of title 5, United States Code, as added by section 3(a).

11 (b) OTHER TERMS.—In this Act, the term “competi-
12 tive service” has the meaning given the term in section
13 2102 of title 5, United States Code.

14 **SEC. 3. DEFINING THE TERM “EXAMINATION” FOR PUR-**
15 **POSES OF HIRING IN THE COMPETITIVE**
16 **SERVICE.**

17 (a) EXAMINATIONS; TECHNICAL ASSESSMENTS.—

18 (1) IN GENERAL.—Section 3304 of title 5,
19 United States Code, is amended—

20 (A) by redesignating subsections (c)
21 through (f) as subsections (d) through (g), re-
22 spectively; and

23 (B) by inserting after subsection (b) the
24 following:

25 “(c) EXAMINATIONS.—

26 “(1) DEFINITIONS.—

1 “(A) EXAMINATION.—

2 “(i) In this chapter, the term ‘exam-
3 ination’—

4 “(I) means an opportunity to di-
5 rectly demonstrate knowledge, skills,
6 abilities, and competencies, through
7 an assessment;

8 “(II) includes a résumé review
9 that is—

10 “(aa) conducted by a subject
11 matter expert; and

12 “(bb) based upon indicators
13 that—

14 “(AA) are derived from
15 a job analysis; and

16 “(BB) bear a rational
17 relationship to performance
18 in the position for which the
19 examining agency is hiring;
20 and

21 “(III) on and after the date that
22 is 2 years after the date of enactment
23 of the Chance to Compete Act of
24 2022, does not include a self-assess-
25 ment from an automated examination,

1 a résumé review (except as provided
2 in subclause (II)), or any other meth-
3 od of determining the experience or
4 level of educational attainment of an
5 individual, alone.

6 “(ii)(I) An agency’s Chief Human
7 Capital Officer may waive clause (i)(III) if
8 the Officer provides a written report to the
9 Director of the Office of Personnel Man-
10 agement within 30 days of authorizing the
11 waiver that justifies the need for such
12 waiver and articulates the data, evidence,
13 and circumstances for such need.

14 “(II) The Director is authorized to
15 provide agencies guidance and instruction
16 on the data, evidence, and circumstances
17 that should be included in the waiver de-
18 scribed in subclause (I) and shall post any
19 waiver on a public website within 30 days
20 of receipt of the waiver.

21 “(III) A waiver shall not be consid-
22 ered in effect until it is posted on the pub-
23 lic website pursuant to subclause (II).

24 “(B) OTHER DEFINITIONS.—In this sub-
25 section—

1 “(i) the term ‘agency’ means an agen-
2 cy described in section 901(b) of title 31;

3 “(ii) the term ‘Director’ means the
4 Director of the Office;

5 “(iii) the term ‘examining agency’
6 means—

7 “(I) the Office; or

8 “(II) an agency to which the Di-
9 rector has delegated examining au-
10 thority under section 1104(a)(2) of
11 this title;

12 “(iv) the term ‘subject matter expert’
13 means an employee or selecting official—

14 “(I) who possesses understanding
15 of the duties of, and knowledge, skills,
16 and abilities required for, the position
17 for which the employee or selecting of-
18 ficial is developing or administering
19 an assessment; and

20 “(II) whom the agency that em-
21 ploys the employee or selecting official
22 designates to assist in the develop-
23 ment and administration of technical
24 assessments under paragraph (2); and

1 “(v) the term ‘technical assessment’
2 means an assessment developed under
3 paragraph (2)(A)(i) that—

4 “(I) allows for the demonstration
5 of job-related technical skills, abilities,
6 and knowledge;

7 “(II)(aa) is based upon a job
8 analysis; and

9 “(bb) is relevant to the position
10 for which the assessment is developed;
11 and

12 “(III) may include—

13 “(aa) a structured interview;

14 “(bb) a work-related exer-
15 cise;

16 “(cc) a custom or generic
17 procedure used to measure an in-
18 dividual’s employment or career-
19 related qualifications and inter-
20 ests; or

21 “(dd) another assessment
22 that meets the criteria under
23 subclauses (I) and (II).

24 “(2) TECHNICAL ASSESSMENTS.—

1 “(A) IN GENERAL.—For the purpose of
2 conducting an examination for a position in the
3 competitive service, an individual or individuals
4 whom an agency determines to have an exper-
5 tise in the subject and job field of the position,
6 as affirmed and audited by the Chief Human
7 Capital Officer or Human Resources Director
8 (as applicable) of that agency, may—

9 “(i) develop, in partnership with
10 human resources employees of the exam-
11 ining agency, a position-specific assessment
12 that is relevant to the position; and

13 “(ii) administer the assessment devel-
14 oped under clause (i) to—

15 “(I) determine whether an appli-
16 cant for the position has dem-
17 onstrated qualification for the posi-
18 tion; or

19 “(II) rank applicants for the po-
20 sition for category rating purposes
21 under section 3319.

22 “(B) SHARING AND CUSTOMIZATION OF
23 ASSESSMENTS.—

24 “(i) SHARING.—An examining agency
25 may share a technical assessment with an-

1 other examining agency if each agency
2 maintains appropriate control over exam-
3 ination material.

4 “(ii) CUSTOMIZATION.—An examining
5 agency with which a technical assessment
6 is shared under clause (i) may customize
7 the assessment as appropriate, provided
8 that the resulting assessment satisfies the
9 requirements under part 300 of title 5,
10 Code of Federal Regulations (or any suc-
11 cessor regulation).

12 “(iii) PLATFORM FOR SHARING AND
13 CUSTOMIZATION.—

14 “(I) IN GENERAL.—The Director
15 shall establish and operate an online
16 platform on which examining agencies
17 can share and customize technical as-
18 sessments under this subparagraph.

19 “(II) ONLINE PLATFORM.—The
20 Director shall—

21 “(aa) not be responsible for
22 independently validating the util-
23 ity of the content and technical
24 assessments shared in the online

1 platform described in subclause
2 (I); and

3 “(bb) ensure that such on-
4 line platform includes the ability
5 of its users to rate the utility of
6 the content and technical assess-
7 ments shared in the online plat-
8 form to allow for a ranking of
9 such contents.

10 “(3) REGULATIONS.—Not later than one year
11 after the date of enactment of the Chance to Com-
12 pete Act of 2022, the Office of Personnel Manage-
13 ment shall prescribe regulations necessary for the
14 administration of this subsection with respect to em-
15 ployees in each agency.”.

16 (2) ALTERNATIVE RANKING AND SELECTION
17 PROCEDURES.—Section 3319(a) of title 5, United
18 States Code, is amended by adding at the end the
19 following: “To be placed in a quality category under
20 the preceding sentence, an applicant shall be re-
21 quired to have passed an examination in accordance
22 with section 3304(b), subject to the exceptions in
23 that section.”.

24 (3) TECHNICAL AND CONFORMING AMEND-
25 MENT.—Section 3330a(a)(1)(B) of title 5, United

1 States Code, is amended by striking “section
2 3304(f)(1)” and inserting “section 3304(g)(1)”.

3 (b) OPM REPORTING.—

4 (1) PUBLIC ONLINE TOOL.—

5 (A) IN GENERAL.—The Director of the Of-
6 fice of Personnel Management shall maintain
7 and periodically update a publicly available on-
8 line tool that, with respect to each position in
9 the competitive service for which an examining
10 agency examined applicants during the applica-
11 ble period, includes—

12 (i) the type of assessment used, such
13 as—

14 (I) a behavioral off-the-shelf as-
15 sessment;

16 (II) a résumé review conducted
17 by a subject matter expert;

18 (III) an interview conducted by a
19 subject matter expert;

20 (IV) a technical off-the-shelf as-
21 sessment; or

22 (V) a cognitive ability test;

23 (ii) whether or not the agency selected
24 a candidate for the position; and

1 (iii) the hiring authority used to fill
2 the position.

3 (B) TIMING.—

4 (i) INITIAL DATA.—Not later than
5 180 days after the date of enactment of
6 this Act, the Director shall update the on-
7 line tool described in subparagraph (A)
8 with data for positions in the competitive
9 service for which an examining agency ex-
10 amined applicants during the period begin-
11 ning on the date of enactment of this Act
12 and ending on the date of submission of
13 the report.

14 (ii) SUBSEQUENT UPDATES.—Not
15 later than October 1 of each fiscal year be-
16 ginning after the date on which the online
17 tool is initially updated under clause (i),
18 the Director shall update the online tool
19 described in subparagraph (A) with data
20 for positions in the competitive service for
21 which an examining agency examined ap-
22 plicants during the preceding fiscal year.

23 (2) ANNUAL PROGRESS REPORT.—

24 (A) IN GENERAL.—Each year, the Direc-
25 tor, in accordance with subparagraphs (B) and

1 (C), shall make publicly available and submit to
2 Congress an overall progress report that in-
3 cludes summary data from examinations that
4 are closed, audited, and anonymous on the use
5 of examinations (as defined in subsection
6 (c)(1)(A) of section 3304 of title 5, United
7 States Code, as added by subsection (a) of this
8 section) for the competitive service, including
9 technical assessments.

10 (B) CATEGORIES; BASELINE DATA.—In
11 carrying out subparagraph (A), the Director
12 shall—

13 (i) break the data down by applicant
14 demographic indicator, including veteran
15 status, race, gender, disability, and any
16 other measure the Director determines ap-
17 propriate; and

18 (ii) use the data available as of Octo-
19 ber 1, 2020, as a baseline.

20 (C) LIMITATIONS.—In carrying out sub-
21 paragraph (A), the Director may only make
22 publicly available and submit to Congress data
23 relating to examinations for which—

24 (i) the related announcement is
25 closed;

- 1 (ii) certificates have been audited; and
2 (iii) all hiring processes are com-
3 pleted.

4 (c) GAO REPORT.—Not later than 5 years after the
5 date of enactment of this Act, the Comptroller General
6 of the United States shall submit to Congress a report
7 that—

8 (1) assesses the implementation of this section
9 and the amendments made by this section;

10 (2) assesses the impact and modifications to the
11 hiring process for the competitive service made by
12 this section and the amendments made by this sec-
13 tion; and

14 (3) makes recommendations for the improve-
15 ment of the hiring process for the competitive serv-
16 ice.

17 **SEC. 4. AMENDMENTS TO COMPETITIVE SERVICE ACT OF**
18 **2015.**

19 (a) PLATFORMS FOR SHARING CERTIFICATES OF
20 ELIGIBLES.—

21 (1) IN GENERAL.—Section 3318(b) of title 5,
22 United States Code, is amended—

23 (A) in paragraph (1), by striking “240-
24 day” and inserting “1-year”;

1 (B) by redesignating paragraph (5) as
2 paragraph (6); and

3 (C) by inserting after paragraph (4) the
4 following:

5 “(5) ONLINE TOOL FOR SHARING RÉSUMÉS OF
6 INDIVIDUALS ON CERTIFICATES OF ELIGIBLES.—Not
7 later than one year after the date of enactment of
8 the Chance to Compete Act of 2022, the Director of
9 the Office of Personnel Management shall establish
10 and operate an online tool on which an appointing
11 authority can share, with other appointing authori-
12 ties and the Chief Human Capital Officers Council
13 established under section 1303 of the Chief Human
14 Capital Officers Act of 2002 (5 U.S.C. 1401 note;
15 Public Law 107–296), the resumes of individuals
16 who are on a certificate of eligibles requested by the
17 appointing authority. In carrying out this para-
18 graph, the Director shall consult with the Chief
19 Human Capital Officers Counsel and its membership
20 to develop a plan to establish such online tool.”.

21 (2) PLAN.—Not later than 270 days year after
22 the date of enactment of this Act, the Director shall
23 provide to Congress a plan to develop the online tool
24 required in paragraph (5) of section 3318(b) of title

1 5, United States Code, as added by paragraph (1)
2 of this subsection. Such plan shall—

3 (A) incorporate the input and feedback col-
4 lected during the required consultation under
5 such paragraph; and

6 (B) include estimated costs for building
7 and operating the online tool for ten years.

8 (b) MAXIMIZING SHARING OF APPLICANT INFORMA-
9 TION.—Section 2 of the Competitive Service Act of 2015
10 (Public Law 114–137; 130 Stat. 310) is amended—

11 (1) by redesignating subsections (c) and (d) as
12 subsections (d) and (e), respectively; and

13 (2) by inserting after subsection (b) the fol-
14 lowing:

15 “(c) EXPLORING THE BENEFITS OF MAXIMIZING
16 SHARING OF APPLICANT INFORMATION.—

17 “(1) DEFINITIONS.—In this subsection—

18 “(A) the terms ‘agency’, ‘Director’, and
19 ‘Office’ have the meanings given those terms in
20 section 3304(c)(1) of title 5, United States
21 Code; and

22 “(B) the term ‘competitive service’ has the
23 meaning given the term in section 2102 of title
24 5, United States Code.

1 “(2) MAXIMIZING SHARING.—The Director
2 shall research the benefits of maximizing the sharing
3 of information among agencies regarding qualified
4 applicants for positions in the competitive service,
5 including by—

6 “(A) providing for the delegation to other
7 agencies of the authority of the Office to host
8 multi-agency hiring actions to increase the re-
9 turn on investment on high-quality pooled an-
10 nouncements; and

11 “(B) sharing certificates of eligibles and
12 accompanying résumés for appointment.”.

13 (c) REPORT.—Not later than one year after the date
14 of enactment of this Act, the Director shall provide a writ-
15 ten report to Congress on the findings of the research re-
16 quired by the amendment made by subsection (b)(2). Such
17 report shall include a plan to implement the most effective
18 methods of maximizing the sharing of qualified candidates
19 for positions in the competitive service.

20 **SEC. 5. MODERNIZING AND REFORMING THE ASSESSMENT**
21 **AND HIRING OF FEDERAL JOB CANDIDATES.**

22 (a) OPM REVIEW.—The Director shall conduct a re-
23 view of all examinations for hiring for a position that the
24 Office or any other examining agency has determined re-
25 quires a minimum educational requirement because of the

1 nature of the duties of such position is of a scientific, tech-
2 nical, or professional position pursuant to section 3308 of
3 title 5, United States Code, to determine whether there
4 are data, evidence, or other information that justifies the
5 need for educational requirements for such position. The
6 Director shall consult with appropriate agencies, employee
7 representatives, external experts, and other stakeholders
8 when making any such determinations.

9 (b) ONLINE TOOL REGARDING POSITION DUTIES.—

10 (1) IN GENERAL.—Not later than two years
11 after the date of enactment of this Act, the Director
12 shall create and maintain an online tool that lists
13 each of the duties determined to require minimum
14 educational requirements and the data, evidence, or
15 other information that justifies the need for these
16 educational requirements. This online tool shall in-
17 clude a mechanism to receive feedback regarding
18 data, evidence, or information that could affect the
19 determination that a duty requires a minimum edu-
20 cational requirement.

21 (2) HIRING PRACTICES.—Not later than one
22 year after the creation of the online tool under para-
23 graph (1), the Director and the head of any other
24 examining agency shall amend the hiring practices
25 of the Office or the other examining agency, respec-

1 tively, in accordance with the findings of the review
2 made by subsection (a).

3 (c) **ONLINE TOOL REGARDING RECRUITING.**—Upon
4 the date of enactment of this Act, the Director shall estab-
5 lish and maintain an online tool that provides Federal
6 agencies guidance on, and information about, all programs
7 and authorities that help agencies attract, recruit, hire,
8 and retain individuals.

9 **SEC. 6. TALENT TEAMS.**

10 (a) **FEDERAL AGENCY TALENT TEAMS.**—

11 (1) **IN GENERAL.**—An agency may establish one
12 or more talent teams (referred to in this section as
13 “agency talent teams”), including at the component
14 level.

15 (2) **DUTIES.**—An agency talent team shall pro-
16 vide hiring support to the agency and other agencies,
17 including by—

18 (A) improving examinations (as defined in
19 subsection (c)(1)(A) of section 3304 of title 5,
20 United States Code, as added by section 3(a));

21 (B) facilitating writing job announcements
22 for the competitive service;

23 (C) sharing high-quality certificates of eli-
24 gibles; and

1 (D) facilitating hiring for the competitive
2 service using examinations (as defined in such
3 subsection (c)(1)(A)) and subject matter ex-
4 perts.

5 (b) OFFICE OF PERSONNEL MANAGEMENT.—The
6 Director may establish a Federal talent team to support
7 agency talent teams in facilitating pooled hiring actions
8 across the Federal Government, providing training, and
9 creating technology platforms to facilitate hiring for the
10 competitive service, including—

11 (1) the development of technical assessments;
12 and

13 (2) the sharing of certificates of eligibles and
14 accompanying résumés under sections 3318(b) and
15 3319(c) of title 5, United States Code.

16 **SEC. 7. DETERMINATION OF BUDGETARY EFFECTS.**

17 The budgetary effects of this Act, for the purpose of
18 complying with the Statutory Pay-As-You-Go Act of 2010,
19 shall be determined by reference to the latest statement
20 titled “Budgetary Effects of PAYGO Legislation” for this
21 Act, submitted for printing in the Congressional Record
22 by the Chairman of the House Budget Committee, pro-

