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116TH CONGRESS
2D SESSION

S. 3896

[Report No. 116–302]

To amend title 5, United States Code, to require the Director of the Office of Personnel Management to establish and maintain a public directory of the individuals occupying Government policy and supporting positions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 4, 2020

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

NOVEMBER 30, 2020

Reported by Mr. JOHNSON, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend title 5, United States Code, to require the Director of the Office of Personnel Management to establish and maintain a public directory of the individuals occupying Government policy and supporting positions, 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; PURPOSES.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Periodically Listing Updates to Management Act of
4 2020” or the “PLUM Act of 2020”.

5 (b) PURPOSES.—The purposes of this Act are to—

6 (1) modernize the practice of publishing the
7 “Plum Book,” which has occurred nearly every 4
8 years since 1952, and contains data on more than
9 9,000 Federal civil service leadership and support
10 positions in the legislative and executive branches of
11 the Government that may be subject to noncompeti-
12 tive appointment;

13 (2) enhance transparency by reporting who is
14 serving in the Government and making policy deci-
15 sions; and

16 (3) improve the frequency, accuracy, and acces-
17 sibility of data on the individuals filling Government
18 policy and supporting positions.

19 **SEC. 2. ESTABLISHMENT OF PUBLIC WEBSITE ON GOVERN-**
20 **MENT POLICY AND SUPPORTING POSITIONS.**

21 (a) ESTABLISHMENT.—

22 (1) IN GENERAL.—Subchapter I of chapter 33
23 of title 5, United States Code, is amended by adding
24 at the end the following:

1 **“§ 3330f. Government policy and supporting position**
2 **data**

3 “(a) DEFINITIONS.—In this section:

4 “(1) AGENCY.—The term ‘agency’ means—

5 “(A) any Executive agency, including the
6 United States Postal Service and the Postal
7 Regulatory Commission;

8 “(B) the Architect of the Capitol, the Gov-
9 ernment Accountability Office, the Government
10 Publishing Office, and the Library of Congress;
11 and

12 “(C) the Executive Office of the President
13 and any component within that Office (includ-
14 ing any successor component), including—

15 “(i) the Council of Economic Advi-
16 sors;

17 “(ii) the Council on Environmental
18 Quality;

19 “(iii) the National Security Council;

20 “(iv) the Office of the Vice President;

21 “(v) the Office of Policy Development;

22 “(vi) the Office of Administration;

23 “(vii) the Office of Management and
24 Budget;

25 “(viii) the Office of the United States
26 Trade Representative;

1 “(ix) the Office of Science and Tech-
 2 nology Policy;

3 “(x) the Office of National Drug Con-
 4 trol Policy; and

5 “(xi) the White House Office.

6 “(2) APPOINTEE.—The term ‘appointee’—

7 “(A) means an individual serving in a pol-
 8 icy and supporting position; and

9 “(B) includes an individual serving in a
 10 policy and supporting position temporarily in an
 11 acting capacity in accordance with—

12 “(i) sections 3345 through 3349d
 13 (commonly referred to as the ‘Federal Va-
 14 cancies Reform Act of 1998’);

15 “(ii) any other statutory provision de-
 16 scribed in section 3347(a)(1); or

17 “(iii) a Presidential appointment de-
 18 scribed in section 3347(a)(2).

19 “(3) COVERED WEBSITE.—The term ‘covered
 20 website’ means the website established and main-
 21 tained by the Director under subsection (b).

22 “(4) DIRECTOR.—The term ‘Director’ means
 23 the Director of the Office of Personnel Management.

24 ~~“(5) POLICY AND SUPPORTING POSITION.—The~~
 25 ~~term ‘policy and supporting position’ means—~~

1 “(A) a position that requires appointment
2 by the President, by and with the advice and
3 consent of the Senate;

4 “(B) a position that requires or permits
5 appointment by the President or Vice Presi-
6 dent, without the advice and consent of the
7 Senate;

8 “(C) a position occupied by a limited term
9 appointee, limited emergency appointee, or non-
10 career appointee in the Senior Executive Serv-
11 ice, as defined under paragraphs (5), (6), and
12 (7), respectively, of section 3132(a);

13 “(D) a position of a confidential or policy-
14 determining character under schedule C of sub-
15 part C of part 213 of title 5, Code of Federal
16 Regulations, or any successor regulation;

17 “(E) a position in the Senior Foreign Serv-
18 ice;

19 “(F) any career position at an agency that,
20 but for this section and section 2(b)(4) of the
21 PLUM Act of 2020, would be included in the
22 publication entitled ‘United States Government
23 Policy and Supporting Positions’ (commonly re-
24 ferred to as the ‘Plum Book’); and

1 “(G) any other position classified at or
 2 above level GS-14 of the General Schedule (or
 3 equivalent) that is excepted from the competi-
 4 tive service by law because of the confidential or
 5 policy-determining nature of the position duties.

6 “(5) *POLICY AND SUPPORTING POSITION.*—*The*
 7 *term ‘policy and supporting position’—*

8 “(A) *means any position at an agency, as*
 9 *determined by the Director, that, but for this sec-*
 10 *tion and section 2(b)(4) of the PLUM Act of*
 11 *2020, would be included in the publication enti-*
 12 *tled ‘United States Government Policy and Sup-*
 13 *porting Positions’ (commonly referred to as the*
 14 *‘Plum Book’); and*

15 “(B) *may include—*

16 “(i) *a position on any level of the Ex-*
 17 *ecutive Schedule under subchapter II of*
 18 *chapter 53, or another position with an*
 19 *equivalent rate of pay;*

20 “(ii) *a general position (as defined in*
 21 *section 3132(a)(9)) in the Senior Executive*
 22 *service;*

23 “(iii) *a position in the Senior Foreign*
 24 *Service;*

1 “(iv) a position of a confidential or
 2 policy-determining character under schedule
 3 C of subpart C of part 213 of title 5, Code
 4 of Federal Regulations, or any successor
 5 regulation; and

6 “(v) any other position classified at or
 7 above level GS–14 of the General Schedule
 8 (or equivalent) that is excepted from the
 9 competitive service by law because of the
 10 confidential or policy-determining nature of
 11 the position duties.

12 “(b) ESTABLISHMENT OF WEBSITE.—The Director
 13 shall establish and maintain a public website containing
 14 the following information:

15 “(1) Each policy and supporting position in the
 16 Federal Government, including any such position
 17 that is vacant.

18 “(2) Each individual who—

19 “(A) is serving in a position described in
 20 paragraph (1); or

21 “(B) previously served in a position de-
 22 scribed in paragraph (1) under the President
 23 then in office.

1 “(c) CONTENTS.—With respect to any policy and
 2 supporting position listed on the covered website, the Di-
 3 rector shall include—

4 “(1) the agency and agency component (includ-
 5 ing the agency and bureau code used by the Office
 6 of Management and Budget) in which the position
 7 is located;

8 “(2) the name of the position;

9 “(3) the name of the individual occupying the
 10 position (if any);

11 “(4) the geographic location of the position, in-
 12 cluding the city, State or province, and country;

13 “(5) the pay system for the position;

14 “(6) the level, grade, or rate of pay;

15 “(7) the term or duration of the appointment
 16 (if any);

17 “(8) the expiration date, in the case of a time-
 18 limited appointment;

19 “(9) a unique identifier for each appointee to
 20 enable tracking the appointee across positions; and

21 “(10) whether the position is vacant.

22 “(d) FORMAT.—The Director shall make the data on
 23 the covered website available to the public at no cost over
 24 the internet in a searchable, sortable, downloadable, and
 25 machine-readable format so that the data qualifies as an

1 open Government data asset, as defined in section 3502
2 of title 44.

3 “(e) AUTHORITY OF DIRECTOR.—

4 “(1) INFORMATION REQUIRED.—Each agency
5 shall provide to the Director any information that
6 the Director determines necessary to establish and
7 maintain the covered website, including the informa-
8 tion uploaded under paragraph (4).

9 “(2) REQUIREMENTS FOR AGENCIES.—Not
10 later than 1 year after the date of enactment of the
11 PLUM Act of 2020, the Director shall issue instruc-
12 tions to agencies with specific requirements for the
13 provision or uploading of information required under
14 paragraph (1), including—

15 “(A) specific data standards that an agen-
16 cy shall follow to ensure that the information is
17 complete, accurate, and reliable;

18 “(B) data quality assurance methods; and

19 “(C) the timeframe during which an agen-
20 cy shall provide or upload the information, in-
21 cluding the timeframe described under para-
22 graph (4).

23 “(3) PUBLIC ACCOUNTABILITY.—The Director
24 shall identify on the covered website any agency that
25 has failed to provide—

1 “(A) the information required by the Di-
2 rector;

3 “(B) complete, accurate, and reliable infor-
4 mation; or

5 “(C) the information during the timeframe
6 specified by the Director.

7 “(4) ~~MONTHLY~~ *BIENNIAL* UPDATES.—

8 “(A) ~~IN GENERAL.~~—Not later than 90
9 days after the date on which the covered
10 website is established, and not less than once
11 during each ~~30-day period~~ *2-year period* there-
12 after, the head of each agency shall upload to
13 the covered website updated information (if
14 any) on—

15 “(i) the policy and supporting posi-
16 tions in the agency;

17 “(ii) the appointees occupying those
18 positions in the agency; and

19 “(iii) the former appointees who
20 served in policy and supporting positions in
21 the agency under the President then in of-
22 fice.

23 “(B) ~~SUPPLEMENT NOT SUPPLANT.~~—In-
24 formation provided under subparagraph (A)

1 shall supplement, not supplant, data previously
2 provided under that subparagraph.

3 “(5) OPM HELP DESK.—The Director shall es-
4 tablish a central help desk, to be operated by not
5 more than 1 full-time employee, to assist any agency
6 with implementing this section.

7 “(6) COORDINATION.—

8 “(A) 18F OFFICE.—The Director shall
9 consult with the 18F office (or any successor
10 office) within the General Services Administra-
11 tion for purposes of the development, establish-
12 ment, operation, and support of the covered
13 website.

14 “(B) DESIGNATION OF AGENCIES.—The
15 Director—

16 “(i) may designate 1 or more agencies
17 to participate in the development, estab-
18 lishment, operation, and support of the
19 covered website; and

20 “(ii) with respect to any such designa-
21 tion, may specify the scope of the respon-
22 sibilities of the agency so designated.

23 “(f) RESPONSIBILITY OF AGENCIES.—

24 “(1) PROVISION OF INFORMATION.—Each agen-
25 cy shall comply with the instructions and guidance

1 issued by the Director to carry out this section, and,
 2 upon request of the Director, shall provide appro-
 3 priate assistance to the Director to ensure the suc-
 4 cessful operation of the covered website in the man-
 5 ner and within the timeframe specified by the Direc-
 6 tor under subsection (e)(2).

7 “(2) ENSURING COMPLETENESS, ACCURACY,
 8 AND RELIABILITY.—The head of an agency shall in-
 9 clude with any submission of information described
 10 in paragraph (1)—

11 “(A) an explanation of how the agency en-
 12 sured the information is complete, accurate,
 13 and reliable; and

14 “(B) a certification that the information is
 15 complete, accurate, and reliable.

16 “(g) INFORMATION VERIFICATION.—

17 ~~“(1) SEMIANNUAL CONFIRMATION.—~~

18 ~~“(A) IN GENERAL.—Not less frequently~~
 19 ~~than semiannually, the Director, in coordination~~
 20 ~~with the White House Office of Presidential~~
 21 ~~Personnel, shall confirm that the information~~
 22 ~~on the covered website is complete, accurate, re-~~
 23 ~~liable, and up-to-date.~~

24 ~~“(1) CONFIRMATION.—~~

1 “(A) *IN GENERAL.*—*On the date that is 90*
 2 *days after the date on which the covered website*
 3 *is established, the Director, in coordination with*
 4 *the White House Office of Presidential Personnel,*
 5 *shall confirm that the information on the covered*
 6 *website is complete, accurate, reliable, and up-to-*
 7 *date.*

8 “(B) *CERTIFICATION.*—On the date on
 9 which the Director makes a confirmation under
 10 subparagraph (A), the Director shall publish on
 11 the covered website a certification that the con-
 12 firmation has been made.

13 “(2) *AUTHORITY OF DIRECTOR.*—In carrying
 14 out paragraph (1), the Director may—

15 “(A) request additional information from
 16 an agency; and

17 “(B) use any additional information pro-
 18 vided to the Director or the White House Office
 19 of Presidential Personnel for the purposes of
 20 verification.

21 “(3) *PUBLIC COMMENT.*—The Director shall es-
 22 tablish a process under which members of the public
 23 may provide feedback regarding the accuracy of the
 24 information on the covered website.

25 “(h) *DATA ARCHIVING.*—

1 “(1) IN GENERAL.—As soon as practicable
 2 after a transitional inauguration day (as defined in
 3 section 3349a), the Director, in consultation with
 4 the Archivist of the United States, shall archive the
 5 data that was compiled on the covered website for
 6 the preceding presidential administration.

7 “(2) PUBLIC AVAILABILITY.—The Director
 8 shall make the data described in paragraph (1) pub-
 9 licly available over the internet—

10 “(A) on, or through a link on, the covered
 11 website;

12 “(B) at no cost; and

13 “(C) in a searchable, sortable,
 14 downloadable, and machine-readable format.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
 16 tions for subchapter I of chapter 33 of title 5,
 17 United States Code, is amended by adding at the
 18 end the following:

“3330f. Government policy and supporting position data.”.

19 (3) DEADLINE.—Not later than 1 year after
 20 the date of enactment of this Act, the Director of
 21 the Office of Personnel Management shall establish
 22 the website required under section 3330f(b) of title
 23 5, United States Code, as added by subsection
 24 (a)(1).

25 (b) OTHER MATTERS.—

1 (1) DEFINITIONS.—In this subsection, the
 2 terms “agency”, “covered website”, and “policy and
 3 supporting position” have the meanings given those
 4 terms in section 3330f of title 5, United States
 5 Code, as added by subsection (a)(1).

6 (2) AUTHORIZATION OF APPROPRIATIONS.—
 7 ~~There is authorized to be appropriated \$10,000,000,~~
 8 *There are authorized to be appropriated such sums as*
 9 *may be necessary,* to remain available until expended,
 10 for developing the covered website under section
 11 3330f(b) of title 5, United States Code, as added by
 12 subsection (a)(1).

13 (3) GAO REVIEW AND REPORT.—

14 (A) IN GENERAL.—Not later than 1 year
 15 after the date on which the covered website is
 16 established, the Comptroller General of the
 17 United States shall conduct a review of, and
 18 issue a briefing or report on, the implementa-
 19 tion of this Act and the amendments made by
 20 this Act.

21 (B) CONTENTS.—The review conducted
 22 under subparagraph (A) shall include—

23 (i) the quality of data collected and
 24 whether the data is complete, accurate,
 25 timely, and reliable;

1 (ii) any challenges experienced by
2 agencies in implementing this Act and the
3 amendments made by this Act; and

4 (iii) any suggestions or modifications
5 to enhance compliance with this Act and
6 the amendments made by this Act, includ-
7 ing best practices for agencies to follow.

8 (4) SUNSET OF PLUM BOOK.—Beginning on
9 January 1, 2024—

10 (A) the covered website shall serve as the
11 public directory for policy and supporting posi-
12 tions in the Government; and

13 (B) the publication entitled “United States
14 Government Policy and Supporting Positions”,
15 commonly referred to as the “Plum Book”,
16 shall no longer be issued or published.

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A BILL

To amend title 5, United States Code, to require the Director of the Office of Personnel Management to establish and maintain a public directory of the individuals occupying Government policy and supporting positions, and for other purposes.

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Reported with amendments