To place limitations on excepting positions from the competitive service, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Kaine (for himself, Mrs. Feinstein, Mr. Warner, Mr. Cardin, Mr. Van Hollen, Mr. Schatz, Mr. Markey, Ms. Duckworth, Ms. Hirono, Mr. King, Mrs. Shaheen, Mr. Casey, Mr. Durbin, Mr. Whitehouse, and Mr. Carper) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To place limitations on excepting positions from the competitive service, 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 “Saving the Civil Service Act”.

SEC. 2. LIMITATIONS ON EXCEPTING POSITIONS FROM COMPETITIVE SERVICE AND TRANSFERRING POSITIONS.

(a) DEFINITIONS.—In this section—
(1) the term “agency” means any department, agency, or instrumentality of the Federal Government;
(2) the term “competitive service” has the meaning given the term in section 2102 of title 5, United States Code;
(3) the term “Director” means the Director of the Office of Personnel Management; and
(4) the term “excepted service” has the meaning given the term in section 2103 of title 5, United States Code.

(b) LIMITATIONS.—A position in the competitive service may not be excepted from the competitive service unless that position is placed—

(1) in any of schedules A through E, as described in section 6.2 of title 5, Code of Federal Regulations, as in effect on September 30, 2020; and
(2) under the terms and conditions under part 6 of title 5, Code of Federal Regulations, as in effect on September 30, 2020.

(c) TRANSFERS.—

(1) WITHIN EXCEPTED SERVICE.—A position in the excepted service may not be transferred to any
schedule other than a schedule described in sub-
section (b)(1).

(2) OPM CONSENT REQUIRED.—An agency
may not transfer any occupied position from the
competitive service or the excepted service into
schedule C of subpart C of part 213 of title 5, Code
of Federal Regulations, or any successor regulations,
without the prior consent of the Director.

(3) LIMIT DURING PRESIDENTIAL TERM.—Dur-
ing any 4-year presidential term, an agency may not
transfer from a position in the competitive service to
a position in the excepted service the greater of the
following:

(A) A total number of employees that is
more than 1 percent of the total number of em-
ployees employed by that agency, as of the first
day of that presidential term.

(B) 5 employees.

(4) EMPLOYEE CONSENT REQUIRED.—Notwith-
standing any other provision of this section—

(A) an employee who occupies a position in
the excepted service may not be transferred to
an excepted service schedule other than the
schedule in which that position is located with-
out the prior written consent of the employee; and

(B) an employee who occupies a position in the competitive service may not be transferred to the excepted service without the prior written consent of the employee.

(d) Other Matters.—

(1) Application.—Notwithstanding section 7425(b) of title 38, United States Code, this section shall apply to a position under chapter 73 or 74 of that title.

(2) Report.—Not later than March 15 of each calendar year, the Director shall submit to Congress a report on the immediately preceding calendar year that lists—

(A) each position that, during the year covered by the report, was transferred from the competitive service to the excepted service and a justification as to why each such position was so transferred; and

(B) any violation of this section that occurred during the year covered by the report.

(e) Regulations.—Not later than 90 days after the date of enactment of this Act, the Director shall issue regulations to implement this section.