AMENDMENT TO COMMITTEE PRINT 117-13
OFFERED BY MR. TONY GONZALES OF TEXAS

At the end of title XI, add the following new section:

1 SEC. 11. NATIONAL DIGITAL RESERVE CORPS.

2 (a) In General.—Subpart I of part III of title 5,
3 United States Code, is amended by adding at the end the
4 following new chapter:

5 "CHAPTER 103—NATIONAL DIGITAL
6 RESERVE CORPS

7 "Sec. 10301. Definitions.
8 "Sec. 10302. Establishment.
9 "Sec. 10303. Organization.
10 "Sec. 10304. Assignments.
11 "Sec. 10305. Reservist continuing education.
12 "Sec. 10306. Congressional reports.

7 "SEC. 10301. DEFINITIONS.
8 "In this chapter:
9 "(1) ACTIVE RESERVIST.—The term ‘active re-
10 servist’ means a reservist holding a position to which
11 such reservist has been appointed under section
12 10303(c)(2).
13 "(2) ADMINISTRATOR.—The term ‘Adminis-
14 trator’ means the Administrator of the General
15 Services Administration.
“(3) INACTIVE RESERVIST.—The term ‘inactive reservist’ means a reservist who is not serving in an appointment under section 10303(c)(2).

“(4) PROGRAM.—The term ‘Program’ means the program established under section 10302(a).

“(5) RESERVIST.—The term ‘reservist’ means an individual who is a member of the National Digital Reserve Corps.

“SEC. 10302. ESTABLISHMENT.

“(a) ESTABLISHMENT.—There is established in the General Services Administration a program to establish, manage, and assign a reserve of individuals with relevant skills and credentials, to be known as the ‘National Digital Reserve Corps’, to help address the digital and cybersecurity needs of Executive agencies.

“(b) IMPLEMENTATION.—

“(1) GUIDANCE.—Not later than six months after the date of the enactment of this section, the Administrator shall issue guidance for the National Digital Reserve Corps, which shall include procedures for coordinating with Executive agencies to—

“(A) identify digital and cybersecurity needs which may be addressed by the National Digital Reserve Corps; and
“(B) assign active reservists to address such needs.

“(2) Recruitment and Initial Assignments.—Not later than one year after the date of the enactment of this section, the Administrator shall begin recruiting reservists and assigning active reservists under the Program.

“SEC. 10303. ORGANIZATION.

“(a) Administration.—

“(1) In general.—The National Digital Reserve Corps shall be administered by the Administrator.

“(2) Responsibilities.—In carrying out the Program, the Administrator shall—

“(A) establish standards for serving as a reservist, including educational attainment, professional qualifications, and background checks;

“(B) ensure the standards established under subparagraph (A) are met;

“(C) recruit individuals to the National Digital Reserve Corps;

“(D) activate and deactivate reservists as necessary;

“(E) coordinate with Executive agencies to—
“(i) determine the digital and cybersecurity needs which reservists shall be assigned to address;

“(ii) ensure reservists have access, resources, and equipment required to address digital and cybersecurity needs which such reservists are assigned to address; and

“(iii) analyze potential assignments for reservists to determine outcomes, develop anticipated assignment timelines, and identify Executive agency partners;

“(F) ensure reservists acquire and maintain appropriate suitability and security eligibility and access; and

“(G) determine what additional resources, if any, are required to successfully implement the Program.

“(b) NATIONAL DIGITAL RESERVE CORPS PARTICIPATION.—

“(1) SERVICE OBLIGATION AGREEMENT.—

“(A) IN GENERAL.—An individual may become a reservist only if such individual enters into a written agreement with the Administrator to become a reservist.
“(B) CONTENTS.—The agreement under subparagraph (A) shall—

“(i) require the individual seeking to become a reservist to serve as a reservist for a three-year period, during which such individual shall serve not less than 30 days per year as an active reservist; and

“(ii) set forth all other the rights and obligations of the individual and the General Services Administration.

“(2) EMPLOYEE STATUS AND COMPENSATION.—

“(A) EMPLOYEE STATUS.—An inactive reservist shall not be considered to be a Federal employee for any purpose solely on the basis of being a reservist.

“(B) COMPENSATION.—The Administrator shall determine the appropriate compensation for service as an active reservist, except that the maximum rate of pay may not exceed the maximum rate of basic pay payable for GS-15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law).
“(3) USERRA Employment and Reemployment Rights.—

“(A) IN GENERAL.—The protections, rights, benefits, and obligations provided under chapter 43 of title 38 shall apply to active reservists of the National Reserve Digital Corps appointed pursuant to paragraph (2) of subsection (c) of section 10303 of this chapter to perform service to the General Services Administration under section 10304 of this chapter, or to train for such service under section 10305 of this chapter.

“(B) NOTICE OF ABSENCE FROM POSITION OF EMPLOYMENT.—Preclusion of giving notice of service by necessity of service under paragraph (2) of subsection (c) of section 10303 of this chapter to perform service to the General Services Administration under section 10304 of this chapter, or to train for such service under section 10305 of this chapter, shall be deemed preclusion by “military necessity” for purposes of section 4312(b) of title 38 pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Administrator and shall not be
subject to review in any judicial or administrative proceeding.

“(4) Penalties.—

“(A) In general.—A reservist that fails to accept an appointment under subsection (c)(2) or fails to carry out the duties assigned to reservist under such an appointment shall, after notice and an opportunity to be heard—

“(i) cease to be a reservist; and

“(ii) be fined an amount equal to the amounts, if any, paid under section 10305 with respect to training expenses for such reservist.

“(B) Exception.—With respect to a failure of a reservist to accept an appointment under subsection (c)(2) or to carry out the duties assigned to the reservist under such an appointment—

“(i) subparagraph (A) shall not apply if the failure was due to the continuation, recurrence, or onset of a serious health condition or any other circumstance beyond the control of the reservist; and

“(ii) the Administrator may waive the application of subparagraph (A), in whole
or in part, if the Administrator determines that applying subparagraph (A) with respect to the failure would be against equity and good conscience and not in the best interest of the United States.

“(c) Hiring Authority.—

“(1) Corps Leadership.—The Administrator may appoint qualified candidates to positions in the competitive service in the General Service Administration for which the primary duties are related to the management or administration of the National Digital Reserve Corps, as determined by the Administrator.

“(2) Corps Reservists.—

“(A) In General.—The Administrator may appoint, without regard to the provisions of subchapter I of chapter 33 (other than sections 3303 and 3328), qualified reservists to temporary positions in the competitive service for the purpose of assigning such reservists under section 10304 and to otherwise carry out the National Digital Reserve Corps.

“(B) Appointment Limits.—

“(i) In General.—The Administrator may not appoint an individual under this
paragraph if, during the 365-day period ending on the date of such appointment, such individual has been an officer or employee of the executive or legislative branch of the United States Government or of any independent agency of the United States 130 or more days.

“(ii) AUTOMATIC APPOINTMENT TERMINATION.—The appointment of an individual under this paragraph shall terminate upon such individual being employed as an officer or employee of the executive or legislative branch of the United States Government or of any independent agency of the United States for 130 days during the previous 365 days.

“(C) EMPLOYEE STATUS.—An individual appointed under this paragraph shall be considered a special Government employee (as such term is defined in section 202(a) of title 18).

“(D) ADDITIONAL EMPLOYEES.—Individuals appointed under this paragraph shall be in addition to any employees of the General Services Administration whose duties relate to the
digital or cybersecurity needs of the General Services Administration.

“SEC. 10304. ASSIGNMENTS.

“(a) IN GENERAL.—The Administrator may assign active reservists to address the digital and cybersecurity needs of Executive agencies, including cybersecurity services, digital education and training, data triage, acquisition assistance, guidance on digital projects, development of technical solutions, and bridging public needs and private sector capabilities.

“(b) ASSIGNMENT-SPECIFIC ACCESS, RESOURCES, SUPPLIES, OR EQUIPMENT.—The head of an Executive agency shall, to the extent practicable, provide each active reservist assigned to address a digital or cybersecurity need of such Executive agency under subsection (a) with any specialized access, resources, supplies, or equipment required to address such digital or cybersecurity need.

“(c) DURATION.—An assignment of an individual under subsection (a) shall terminate on the earlier of—

“(1) the date determined by the Administrator;

“(2) the date on which the Administrator receives notification of the decision of the head of the Executive agency, the digital or cybersecurity needs of which such individual is assigned to address
under subsection (a), that such assignment should terminate; or

“(3) the date on which the assigned individual ceases to be an active reservist.

“(d) COMPLIANCE.—The Administrator shall ensure that assignments under subsection (a) are consistent with all applicable Federal ethics rules and Federal appropriations laws.

“SEC. 10305. RESERVIST CONTINUING EDUCATION.

“(a) IN GENERAL.—Subject to the availability of appropriations, the Administrator may pay for reservists to acquire training and receive continuing education, including attending conferences and seminars and obtaining certifications, that will enable reservists to more effectively meet the digital and cybersecurity needs of Executive agencies.

“(b) APPLICATION.—The Administrator shall establish a process for reservists to apply for the payment of reasonable expenses related to the training or continuing education described in subsection (a).

“(c) REPORT.—Not later than one year after the date of the enactment of this section, and annually thereafter, the Administrator shall submit to Congress a report on the expenditures under this subsection.
SEC. 10306. CONGRESSIONAL REPORTS.

“Not later than two years after the date of the enactment of this section, and annually thereafter, the Administrator shall submit to Congress a report on the Program, including—

“(1) the number of reservists;

“(2) a list of Executive agencies that have submitted requests for support from the National Digital Reserve Corps;

“(3) the nature and status of such requests; and

“(4) with respect to each such request to which active reservists have been assigned and for which work by the National Digital Reserve Corps has concluded, an evaluation of such work and the results of such work by—

“(A) the Executive agency that submitted the request; and

“(B) the reservists assigned to such request.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by inserting after the item related to chapter 102 the following new item:

“103. National Digital Reserve Corps ...................................... 10303”.

(c) CONFORMING AMENDMENTS.—
(1) Service definitions.—Section 4303 of title 38, United States Code, is amended—

(A) in paragraph (13), by inserting “, a period for which a person is absent from a position of employment to perform service to the General Services Administration as an active reservist of the National Reserve Digital Corps under section 10304 of Title 5, or inactive reservist training for such service under section 10305 of Title 5,” before “, and a period”; and

(B) in the second paragraph (16), by inserting “, active reservists of the National Reserve Digital Corps who are appointed into General Services Administration service under section 10303(c)(2) of Title 5, or inactive reservist training for such service under section 10305 of Title 5,” before “, and any other category”.

(2) Reemployment service notice requirement.—Section 4312(b) of title 38, United States Code, is amended by striking “A determination of military necessity” and all that follows and inserting the following: “A determination of military necessity for the purposes of this subsection—

“(1) shall be made—
“(A) except as provided under subparagraph (B), (C), or (D), pursuant to regulations prescribed by the Secretary of Defense;

“(B) for persons performing service to the Federal Emergency Management Agency under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165f) and as intermittent personnel under section 306(b)(1) of such Act, by the Administrator of the Federal Emergency Management Agency as described in sections 327(j)(2) and 306(d)(2), respectively, of such Act;

“(C) for intermittent disaster-response appointees of the National Disaster Medical System, by the Secretary of Health and Human Services as described in section 2812(d)(3)(B) of the Public Health Service Act (42 U.S.C. 300hh–11(d)(3)(B)); and

“(D) for active reservists of the National Reserve Digital Corps performing service to the General Services Administration under section 10304 of title 5, or inactive reservist training for such service under section 10305 of Title 5, by the Administrator of the General Services
Administration as described in section 10303(b)(3)(B) of title 5; and “(2) shall not be subject to judicial review.”.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $30,000,000, to remain available until fiscal year 2023, to carry out the program established under section 10302(a) of title 5, United States Code, as added by this section.