

DIGITAL TECH CORPS ACT OF 2002

MARCH 18, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BURTON of Indiana, from the Committee on Government Reform, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3925]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 3925) to establish an exchange program between the Federal Government and the private sector in order to promote the development of expertise in information technology management, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Digital Tech Corps Act of 2002”.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) unless action is taken soon, there will be a crisis in the government’s ability to deliver essential services to the American people;

(2) by 2006, over 50 percent of the Federal Government’s information technology workforce will be eligible to retire, creating a huge demand in the Federal Government for high-skill workers;

(3) despite a 44 percent decrease in the demand for information technology workers in the private sector, the Information Technology Association of America reported in 2001 that employers will need to fill over 900,000 new information technology jobs and will be unable to find qualified workers for 425,000 of those jobs;

(4) to highlight the urgency of this situation, in January 2001, the General Accounting Office added the Federal Government’s human capital management to its list of high-risk problems for which an effective solution must be found;

(5) despite efforts to increase flexibility in Federal agencies' employment practices, compensation issues continue to severely restrain recruitment for Federal agencies; and

(6) an effective, efficient, and economical response to this crisis would be to create a vibrant, ongoing exchange effort designed to share talent, expertise, and advances in management between leading-edge businesses and Federal agencies engaged in best practices.

**SEC. 3. INFORMATION TECHNOLOGY EXCHANGE PROGRAM.**

(a) IN GENERAL.—Subpart B of part III of title 5, United States Code, is amended by adding at the end the following:

**“CHAPTER 37—INFORMATION TECHNOLOGY EXCHANGE PROGRAM**

“Sec.

“3701. Definitions.

“3702. General provisions.

“3703. Assignment of employees to private sector organizations.

“3704. Assignment of employees from private sector organizations.

“3705. Application to Office of the Chief Technology Officer of the District of Columbia.

“3706. Reporting requirement.

“3707. Regulations.

**“§ 3701. Definitions**

“For purposes of this chapter—

“(1) the term ‘agency’ means an Executive agency, but does not include the General Accounting Office; and

“(2) the term ‘detail’ means—

“(A) the assignment or loan of an employee of an agency to a private sector organization without a change of position from the agency that employs the individual, or

“(B) the assignment or loan of an employee of a private sector organization to an agency without a change of position from the private sector organization that employs the individual,

whichever is appropriate in the context in which such term is used.

**“§ 3702. General provisions**

“(a) ASSIGNMENT AUTHORITY.—On request from or with the agreement of a private sector organization, and with the consent of the employee concerned, the head of an agency may arrange for the assignment of an employee of the agency to a private sector organization or an employee of a private sector organization to the agency. An eligible employee is an individual who—

“(1) works in the field of information technology management;

“(2) is considered an exceptional performer by the individual's current employer; and

“(3) is expected to assume increased information technology management responsibilities in the future.

An employee of an agency shall be eligible to participate in this program only if the employee is employed at the GS–11 level or above (or equivalent) and is serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service.

“(b) AGREEMENTS.—Each agency that exercises its authority under this chapter shall provide for a written agreement between the agency and the employee concerned regarding the terms and conditions of the employee's assignment. In the case of an employee of the agency, the agreement shall—

“(1) require the employee to serve in the civil service, upon completion of the assignment, for a period equal to the length of the assignment; and

“(2) provide that, in the event the employee fails to carry out the agreement (except for good and sufficient reason, as determined by the head of the agency from which assigned) the employee shall be liable to the United States for payment of all expenses of the assignment.

An amount under paragraph (2) shall be treated as a debt due the United States.

“(c) TERMINATION.—Assignments may be terminated by the agency or private sector organization concerned for any reason at any time.

“(d) DURATION.—Assignments under this chapter shall be for a period of between 6 months and 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year, except that no assignment under this chapter may commence after the end of the 5-year period beginning on the date of the enactment of this chapter.

“(e) ASSISTANCE.—The Chief Information Officers Council, by agreement with the Office of Personnel Management, may assist in the administration of this chapter, including by maintaining lists of potential candidates for assignment under this

chapter, establishing mentoring relationships for the benefit of individuals who are given assignments under this chapter, and publicizing the program.

**“§ 3703. Assignment of employees to private sector organizations**

“(a) IN GENERAL.—An employee of an agency assigned to a private sector organization under this chapter is deemed, during the period of the assignment, to be on detail to a regular work assignment in his agency.

“(b) COORDINATION WITH CHAPTER 81.—Notwithstanding any other provision of law, an employee of an agency assigned to a private sector organization under this chapter is entitled to retain coverage, rights, and benefits under subchapter I of chapter 81, and employment during the assignment is deemed employment by the United States, except that, if the employee or the employee’s dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

“(c) REIMBURSEMENTS.—The assignment of an employee to a private sector organization under this chapter may be made with or without reimbursement by the private sector organization for the travel and transportation expenses to or from the place of assignment, subject to the same terms and conditions as apply with respect to an employee of a Federal agency or a State or local government under section 3375, and for the pay, or a part thereof, of the employee during assignment. Any reimbursements shall be credited to the appropriation of the agency used for paying the travel and transportation expenses or pay.

“(d) TORT LIABILITY; SUPERVISION.—The Federal Tort Claims Act and any other Federal tort liability statute apply to an employee of an agency assigned to a private sector organization under this chapter. The supervision of the duties of an employee of an agency so assigned to a private sector organization may be governed by an agreement between the agency and the organization.

**“§ 3704. Assignment of employees from private sector organizations**

“(a) IN GENERAL.—An employee of a private sector organization assigned to an agency under this chapter is deemed, during the period of the assignment, to be on detail to such agency.

“(b) TERMS AND CONDITIONS.—An employee of a private sector organization assigned to an agency under this chapter—

“(1) may, notwithstanding section 209 of title 18, continue to receive pay and benefits from the private sector organization from which he is assigned;

“(2) is deemed, notwithstanding subsection (a), to be an employee of the agency for the purposes of—

“(A) chapter 73;

“(B) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

“(C) sections 1343, 1344, and 1349(b) of title 31;

“(D) the Federal Tort Claims Act and any other Federal tort liability statute;

“(E) the Ethics in Government Act of 1978;

“(F) section 1043 of the Internal Revenue Code of 1986; and

“(G) section 27 of the Office of Federal Procurement Policy Act; and

“(3) is subject to such regulations as the President may prescribe.

The supervision of an employee of a private sector organization assigned to an agency under this chapter may be governed by agreement between the agency and the private sector organization concerned. Such an assignment may be made with or without reimbursement by the agency for the pay, or a part thereof, of the employee during the period of assignment, or for any contribution of the private sector organization to employee benefit systems.

“(c) COORDINATION WITH CHAPTER 81.—An employee of a private sector organization assigned to an agency under this chapter who suffers disability or dies as a result of personal injury sustained while performing duties during the assignment shall be treated, for the purpose of subchapter I of chapter 81, as an employee as defined by section 8101 who had sustained the injury in the performance of duty, except that, if the employee or the employee’s dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

**“§ 3705. Application to Office of the Chief Technology Officer of the District of Columbia**

“(a) IN GENERAL.—The Chief Technology Officer of the District of Columbia may arrange for the assignment of an employee of the Office of the Chief Technology Officer to a private sector organization, or an employee of a private sector organization to such Office, in the same manner as the head of an agency under this chapter.

“(b) TERMS AND CONDITIONS.—An assignment made pursuant to subsection (a) shall be subject to the same terms and conditions as an assignment made by the head of an agency under this chapter, except that in applying such terms and conditions to an assignment made pursuant to subsection (a), any reference in this chapter to a provision of law or regulation of the United States shall be deemed to be a reference to the applicable provision of law or regulation of the District of Columbia, including the applicable provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–601.01 et seq., D.C. Official Code) and section 601 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act (sec. 1–1106.01, D.C. Official Code).

“(c) DEFINITION.—For purposes of this section, the term ‘Office of the Chief Technology Officer’ means the office established in the executive branch of the government of the District of Columbia under the Office of the Chief Technology Officer Establishment Act of 1998 (sec. 1–1401 et seq., D.C. Official Code).

**“§ 3706. Reporting requirement**

“(a) IN GENERAL.—The Office of Personnel Management shall, not later than April 30 and October 31 of each year, prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a semiannual report summarizing the operation of this chapter during the immediately preceding 6-month period ending on March 31 and September 30, respectively.

“(b) CONTENT.—Each report shall include, with respect to the 6-month period to which such report relates—

“(1) the total number of individuals assigned to, and the total number of individuals assigned from, each agency during such period;

“(2) a brief description of each assignment included under paragraph (1), including—

“(A) the name of the assigned individual, as well as the private sector organization and the agency (including the specific bureau or other agency component) to or from which such individual was assigned;

“(B) the respective positions to and from which the individual was assigned, including the duties and responsibilities and the pay grade or level associated with each; and

“(C) the duration and objectives of the individual’s assignment; and

“(3) such other information as the Office considers appropriate.

“(c) PUBLICATION.—A copy of each report submitted under subsection (a)—

“(1) shall be published in the Federal Register; and

“(2) shall be made publicly available on the Internet.

“(d) AGENCY COOPERATION.—On request of the Office, agencies shall furnish such information and reports as the Office may require in order to carry out this section.

**“§ 3707. Regulations**

“The Director of the Office of Personnel Management shall prescribe regulations for the administration of this chapter.”

(b) REPORT.—Not later than 4 years after the date of the enactment of this Act, the General Accounting Office shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the operation of chapter 37 of title 5, United States Code (as added by this section). Such report shall include—

(1) an evaluation of the effectiveness of the program established by such chapter; and

(2) a recommendation as to whether such program should be continued (with or without modification) or allowed to lapse.

(c) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 35 the following:

“37. Information Technology Exchange Program ..... 3701”.

**SEC. 4. ETHICS PROVISIONS.**

(a) ONE-YEAR RESTRICTION ON CERTAIN COMMUNICATIONS.—Section 207(c)(2)(A) of title 18, United States Code, is amended—

(1) by striking “or” at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting “; or”; and

(3) by adding at the end the following:

“(v) an employee of a private sector organization assigned to an agency under chapter 37 of title 5.”.

(b) DISCLOSURE OF CONFIDENTIAL INFORMATION.—Section 1905 of title 18, United States Code, is amended by inserting “or being an employee of a private sector organization who is, or was within the past three years, assigned to an agency under chapter 37 of title 5,” after “(15 U.S.C. 1311–1314),”.

(c) CONTRACT ADVICE.—Section 207 of title 18, United States Code, is amended by adding at the end the following:

“(1) CONTRACT ADVICE BY FORMER DETAILS.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 216 of this title.”.

(d) RESTRICTION ON DISCLOSURE OF PROCUREMENT INFORMATION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended in subsection (a)(1) by adding at the end the following new sentence: “In the case of an employee of a private sector organization assigned to an agency under chapter 37 of title 5, United States Code, in addition to the restriction in the preceding sentence, such employee shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information during the three-year period after the end of the assignment of such employee.”.

#### SEC. 5. REPORT ON EXISTING EXCHANGE PROGRAMS.

(a) EXCHANGE PROGRAM DEFINED.—For purposes of this section, the term “exchange program” means an executive exchange program, the program under subchapter VI of chapter 33 of title 5, United States Code, and any other program which allows for—

- (1) the assignment of employees of the Federal Government to non-Federal employers;
- (2) the assignment of employees of non-Federal employers to the Federal Government; or
- (3) both.

(b) REPORTING REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Office of Personnel Management shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report identifying all existing exchange programs.

(c) SPECIFIC INFORMATION.—The report shall, for each such program, include—

- (1) a brief description of the program, including its size, eligibility requirements, and terms or conditions for participation;
- (2) specific citation to the law or other authority under which the program is established;
- (3) the names of persons to contact for more information, and how they may be reached; and
- (4) any other information which the Office considers appropriate.

#### SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) in section 3111, by adding at the end the following:

“(d) Notwithstanding section 1342 of title 31, the head of an agency may accept voluntary service for the United States under chapter 37 of this title and regulations of the Office of Personnel Management.”;

(2) in section 4108, by striking subsection (d); and

(3) in section 7353(b), by adding at the end the following:

“(4) Nothing in this section precludes an employee of a private sector organization, while assigned to an agency under chapter 37, from continuing to receive pay and benefits from such organization in accordance with such chapter.”.

(b) OTHER AMENDMENTS.—Section 125(c)(1) of Public Law 100–238 (5 U.S.C. 8432 note) is amended—

- (1) in subparagraph (B), by striking “or” at the end;
- (2) in subparagraph (C), by striking “and” at the end and inserting “or”; and
- (3) by adding at the end the following:

“(D) an individual assigned from a Federal agency to a private sector organization under chapter 37 of title 5, United States Code; and”.

## BACKGROUND AND NEED FOR THE LEGISLATION

In 2001, the General Accounting Office added human capital management for the federal government to its annual high risk list. Governmentwide, significant human capital shortages exist that only get worse as thirty-four percent of the federal workforce becomes eligible to retire in the next five years. The numbers are even more bleak in information technology (IT) fields, where the government's recruiting is in direct competition with the private sector. It is estimated that fifty percent of the government's technology workforce will be eligible to retire by 2006.

Over the past decade, the Congress and Executive branch have worked together to bring about significant management reform. We have passed financial management reform, IT management reform, acquisition reform, and government performance and results legislation. Unfortunately, the laws and regulations governing the management of the government's single most valuable resource, its people, have not been updated. The private sector long ago made an end-to-end review of human resources management and learned the lesson our government has yet to recognize: a company's value is only as strong as the people that come through the door every day bringing knowledge, new ideas, and innovation.

A recent KPMG report on human capital management within the federal sector noted that government is operating with personnel tools utilized and developed in the 1950's and 60's. The same study noted that industry undertook major human management reforms in the 1980's followed by ongoing updates that occur as often as three times a year.

For the past decade, the government has managed its workforce through minimum mandatory personnel ceilings and hiring freezes. Today, we see the results in nearly every General Accounting Office (GAO) report on a wide range of government programs. For instance, the Department of Defense (DoD) lost so many of its civilian personnel, the Pentagon faces growing challenges in managing weapons acquisitions and logistics. This is coupled by the fact that fifty percent of the remaining DoD acquisition workforce is eligible to retire by the year 2005. A July 2001 Department of Energy (DOE) Inspector General report found that the recruitment and retention of highly skilled, technical personnel has fallen so far behind that the Department was failing to meet mission goals. Specifically, the workforce at DOE has been downsized by twenty-four percent over a three year period without any strategic planning by agency leadership. This led to a two year shutdown at Livermore's plutonium facility, as there were not enough federal personnel in place to oversee daily operations. At NASA, downsizing has left the shuttle launch team short of qualified personnel to oversee shuttle safety and launch activities. Unfortunately, there are numerous other examples within each federal agency.

Today, eGovernment is a top priority for the federal government. The promise of eGov is revolutionary, but we face severe implementation challenges. Unfortunately, too many of our complex IT procurements continue to fail—upwards of forty percent of them. When the government is spending more than \$50 billion each year on IT, taking steps to improve the management of IT is critically important.

In addition, we have over 1,300 different eGovernment initiatives underway, but we have no measurements of which projects are worthwhile or which should be expanded cross-agency, or cross-government to truly make service more accessible. The Administration's focus of priorities on 24 eGov projects and the work to review and assess IT spending by the Associate Director of Information Technology and the Chief Technology Officer at the U.S. Office of Management and Budget (OMB), the Chief Information Officers (CIO) Council, and the new eGov Council are good steps in the right direction. However, individuals are needed who can work daily on reviewing the status of IT modernizations or cross-agency initiatives to assist in the success of this new team. Unfortunately, the government cannot attract mid-level IT managers who can perform these functions without help from Congress.

Just as important as attracting new individuals with IT skills to public service is the need to retain talented IT managers and improve their skills. This exchange program will help federal agencies retain quality IT managers by offering them exposure to new management concepts and leading-edge organizations. This exchange program should make federal service more attractive, and at the same time, improve the skills of federal IT managers. Congress, in considering the Digital Tech Corps, can help government transform itself by creating a new vision of public service for this century.

According to the National Academy of Public Administration (NAPA) study on the federal IT workforce, the primary barriers to recruiting new IT workers are salary, and length of time between job announcements and the actual hiring of an individual. Moreover, of the five categories identified by IT professionals when considering job opportunities, the federal government receives a low score in all but one category. The creation of a Digital Tech Corps will help eliminate those hurdles.

The Digital Tech Corps enables an exchange program that can begin as soon as an agency negotiates an exchange agreement with a private sector entity. Private sector IT volunteers for the Tech Corps will come into government at the GS-11 through 15 levels for a period of six months to two years, but they will continue to receive pay and benefits from their private sector employer. Federal agency IT volunteers will have the opportunity to go to work for leading-edge private sector companies for a similar period and will retain their government pay and benefits. This type of public-private exchange program will allow for greater knowledge transfer and cross-pollination of ideas, cultures, and processes between the public and private sectors. As Chairman Burton stated at the Committee's business meeting, "[The Tech Corps] \* \* \* helps us solve some of the IT problems that we have." The Act is expected to foster greater innovation and partnership for government and industry.

#### LEGISLATIVE HISTORY/COMMITTEE CONSIDERATION

On July 31, 2001, the Subcommittee on Technology and Procurement Policy of the Committee on Government Reform held a hearing titled "Public Service for the 21st Century: Innovative Solutions to the Federal Government's Technology Workforce Crisis." Prior to the hearing, the Digital Tech Corps Act of 2001, H.R. 2678, was introduced.

Testimony at this hearing from the government included The Honorable David Walker, Comptroller General, U.S. General Accounting Office, The Honorable Kay Coles James, Director, Office of Personnel Management, and the Honorable Stephen Perry, Administrator, U.S. General Services Administration. Testifying from academia and the private sector were Dr. Steven Kelman, Harvard University, John F. Kennedy School of Government, Albert J. Weatherhead III and Richard W. Weatherhead Professor of Public Policy, Mr. Martin Faga, Representative of the National Academy of Public Administration and Chief Executive Officer of the Mitre Corporation, Dr. Ernst Volgenau, Representative of the Information Technology Association of America (ITAA) and President and Chief Executive Officer of SRA International, and Mr. Steve Rohleder, Managing Partner, Accenture.

Generally, the comments of the government and private sector witnesses were highly supportive of the Tech Corps. Mr. James, Director of OPM, said that the Administration has had an interest in developing an exchange program for some time, and that it would create opportunities to improve services and business practices in the government. Mr. Perry, the Administrator of GSA, also affirmed the Administration's support for a technology management exchange program and said that, "I don't have a fear about Federal employees going out. In fact, \* \* \* it will be a useful thing. The experience that they would gain and bring back [to government] would be very beneficial, no question about it." The Honorable David Walker, Comptroller General, stated that "both sides benefit from the exchange of knowledge and experience."

Subcommittee Chairman Tom Davis noted at the hearing that not only was the Digital Tech Corps an effective way to fill critical skills gaps, but also an excellent retention tool for Federal employees. He stated "We lose a lot of people because they are managed badly and go out [of government service]. I think Tech Corps can help with that. \* \* \* It provides challenging work, giving people an opportunity to step outside of government for a year or two and see what it is like there, learning new, innovative techniques as part of a career path in government."

Throughout 2001, press, government, and private industry commented favorably on the legislation, in a number of articles (See, e.g., Stephen Barr, The Washington Post, "Plan for Industry, Government to Exchange High-Tech Workers Picks Up Support", August 1, 2001, Page B02).

In February, 2002, Senator George Voinovich filed the Digital Tech Corps Act of 2002, S. 1913, an identical measure to H.R. 2678.

On March 7, 2002, the Subcommittee on Technology and Procurement Policy held a hearing titled "A Legislative Hearing on H.R. 3832, The Services Acquisition Reform Act of 2002 (SARA)." The SARA bill's section 103 contains an exchange program for acquisition workforce that is modeled after the Digital Tech Corps for the IT workforce. Ms. Deidre Lee, Director of Procurement, United States Department of Defense, commented favorably when she stated, "We support a government-industry exchange program. We believe that by tapping into the knowledge base of the private sector, we not only maximize the business relationships with our in-

dustry partners, but we can also improve the Department's acquisition process and procedures."

On March 14, 2002, the Committee held a business meeting and favorably reported the Digital Tech Corps Act of 2002, H.R. 3925. Subcommittee Chairman Tom Davis and Committee Chairman Dan Burton authored the legislation.

Prior to the business meeting, the Ranking Member of the Committee, Representative Henry Waxman, suggested several changes to add additional study and reporting measures into the bill as well as to raise the ethics bar for Tech Corps participants to a level above that required of Federal employees. These changes were reflected in the Manager's Amendment in the Nature of a Substitute adopted at the business meeting.

An amendment also was offered at the business meeting by Ranking Member Waxman to create a program of continuing education for IT. This was rejected by the Committee on voice vote for lack of clearly defined goals or processes, a risk of unnecessarily duplicating existing governmentwide IT continuing training programs such as the CIO University, and the lack of a legislative record in support of the amendment.

Changes adopted in the Manager's Amendment and subsequently approved by the Committee clarify that private sector employees in the exchange program under § 3704 (i.e. those who work for private sector companies and volunteer to be assigned to a Federal agency via the Tech Corps), shall continue to receive pay and benefits from their private sector companies while on assignment, notwithstanding any other law.

## EXPLANATION OF THE BILL

### OVERVIEW

The Digital Tech Corps Act of 2002 provides for the exchange of talented mid-level staff between leading-edge private sector organizations and government agencies engaged in best practices. The time period for this exchange is limited to six to 12 months with an optional one-year extension (maximum of two years). Federal employees participating in the program are required to fulfill service commitments to their agencies after participation in the program, and all participants must adhere to strict federal employee ethics rules. Employees retain pay and benefits from their respective employers while on assignment in the Digital Tech Corps.

Section One. The Short Title of this Act is the "Digital Tech Corps Act of 2002".

Section Two. In this section, the Committee finds that unless action is taken soon, there will be a crisis in the government's ability to deliver essential services to the American People. Indeed, by 2006, over 50% of the Federal Government's information technology workforce will be eligible to retire, creating a huge demand in the Federal Government for high-skill workers. This demand comes at the same time that the Information Technology Association of America reported in its 2001 study that employers will need to fill over 900,000 new information technology jobs and will be unable to find qualified workers for nearly half of them.

Despite efforts to increase flexibility in Federal agencies' employment practices, compensation issues continue to severely restrain

recruitment for Federal agencies. An effective, efficient, and economical response to this crisis would be to create a vibrant, ongoing exchange of personnel between the public and private sectors designed to share talent, expertise, and advances in management between leading edge businesses and Federal Agencies engaged in best practices.

Section Three. This section creates the Digital Tech Corps as an information technology exchange program in a new Chapter 37 of Subpart B of part III of title 5, United States Code.

The Committee intends that this legislation is applicable only to executive branch agencies. In the legislation, a “detail” has the meaning of either an assignment of an employee of a private sector company to a Federal agency, or it means an assignment of an employee of a Federal agency to a private sector company.

In § 3702, the Act sets forth the eligibility provisions for participation in the Digital Tech Corps. An IT exchange program under this Chapter is initiated via an agreement between the agency, the private sector organization, and the employee involved. Eligible employees are those that are (1) in IT management; (2) considered exceptional performers; and (3) expected to assume increased IT management responsibilities in the future. For employees detailed from the Federal Government, they must be in the GS 11–15 range and serving under career or career-conditional appointment (or the equivalent in the excepted service). Schedule C employees are prohibited from participation. A written agreement between the parties is required, and it must include, at a minimum, provisions that require that Federal employees must return to service of the Government for a period of not less than the length of the exchange (on penalty of paying the Government back the costs of their exchange).

Assignments in the Digital Tech Corps can be terminated by the agency or the private sector organization involved, at any time, for any reason. The duration of exchange shall be for 6–12 months with an extension of up to one additional year in 3 month increments (i.e., 2 years maximum). A sunset provision applies to this Act five years after it is enacted.

The Committee believes the Digital Tech Corps’ ability to meet the IT needs of agencies can be facilitated through the participation of the Chief Information Officers Council in the administration of the Digital Tech Corps, subject to the oversight and regulatory authority granted to the Office of Personnel Management in § 3707. The CIO Council is comprised of the CIO’s of all of the Federal Agencies and was established by executive order.

Assignments of Federal employees to private sector organizations are governed by § 3703. The Committee intends that these assignments of the Digital Tech Corps will be details of regular work assignment for participating Federal employees. Thus, a Federal employee who agrees to participate in the Digital Tech Corps remains a Federal employee while detailed to a private sector organization and retains uninterrupted pay, credits for step increases, retention, worker’s compensation, sick and leave accrual, insurance, and retirement benefits. While on assignment, Federal employees also continue to be covered by the Federal Tort Claims Act and any other applicable tort liability statutes. Nothing about participation in the Digital Tech Corps should be detrimental to the Federal em-

ployee's career, livelihood, or benefits; rather, participation should be a part of advancing one's career in government.

Federal employees in the Digital Tech Corps are eligible for travel and transportation cost reimbursements. These provisions allow agencies to fund the travel and transportation costs of Federal employees participating in the Digital Tech Corps.

The assignment in the Digital Tech Corps of private sector employees to federal Government agencies is enacted by §3704. Private sector employees volunteering for the Digital Tech Corps are on detail from the private sector to Federal agencies. The Committee intends that, notwithstanding any other provision of law, private sector organizations with employees participating in the Digital Tech Corps will continue to provide pay and benefits to these employees while they are on detail to the government in the Digital Tech Corps.

Private sector employees must adhere to strict Federal employee ethics, revolving door, and accountability provisions during and after their assignments in the Digital Tech Corps. Specifically, a private sector employee under §3704 is deemed a Federal Government employee for purposes of:

1. The Hatch Act (Chapter 73). This puts a Tech Corps private sector volunteer that is detailed to a Federal agency under the provisions of the Hatch Act.

2. 18 U.S.C. §§ 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913. These criminal law provisions apply to Digital Tech Corps participants and includes: (1) acting as a lobbyist (for 1 year after the exchange); (2) accepting bribes for official work; (3) aiding in the obtaining of contracts (1 year after); (4) suing the government (other than in the proper discharge of official duties); (5) revolving door activities; (6) financial conflicts of interest; (7) making political contributions; (8) intimidation to secure political contributions; (9) receipt of political contributions; (10) embezzlement; (11) disclosure of confidential information/trade secrets (for 3 years after detail); and (12) lobbying with appropriated moneys.

3. 31 U.S.C. §§ 1343, 1344, and 1349(b): These provisions set forth that Tech Corps detailees are forbidden to have government-funded transportation furnished for their use.

4. Ethics in Government Act of 1978.

5. Section 1043 of the Internal Revenue Code of 1986: This provision affects sale of property to resolve financial conflicts of interest and specifies how the IRS treats these sales.

6. 41 U.S.C. 423 (Section 27 of the Office of Federal Procurement Policy Act). This provision prohibits Tech Corps detailees from disclosing procurement information, during and for 3 years after the detail.

In §3705, the Committee expresses its intent that the Digital Tech Corps program should apply to IT workers and agencies in the District of Columbia Government.

In §3706, the Act sets forth extensive reporting requirements by both the General Accounting Office and the Office of Personnel Management, including a study of all other existing exchange programs in the federal government (e.g. the IPA program).

Finally, in §3707, the Act provides that OPM has regulatory jurisdiction over the Digital Tech Corps. In addition, the President may prescribe other regulations to govern the Digital Tech Corps

program. The Act also makes technical and conforming amendments.

The Committee expects that administrative, law enforcement, and judicial entities will be mindful that, notwithstanding any other law, the Act expressly allows for employees of private sector organizations to be assigned under the Digital Tech Corps to Federal agencies to work on appropriate governmental projects while retaining all pay and benefits from the private sector employer. Concurrently, the Act allows Federal agency employees to be assigned to private sector organizations and retain all pay and benefits from the federal government.

#### COMPLIANCE WITH RULE XI

Pursuant to rule XI, 2(1)(3)(A), of the Rules of the House of Representatives, under the authority of rule X, clause 2(b)(1) and clause 3(f), the results and findings from those oversight activities are incorporated in the recommendations found in the bill and in the report.

#### BUDGET ANALYSIS AND PROJECTIONS

This Act provides for no new authorizations or budget authority or tax expenditures. Consequently, the provisions of section 308(a)(1) are not applicable.

#### COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

The cost estimate required by the Congressional Budget Office was timely submitted.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 18, 2002.*

Hon. DAN BURTON,  
*Chairman, Committee on Government Reform,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3925, the Digital Tech Corps Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

#### *H.R. 3925—Digital Tech Corps Act of 2002*

H.R. 3925 would establish an exchange program between the federal government and the private sector to promote information technology management. The bill would allow the exchange of employees for up to two years between the public and private sectors to share information management talent and expertise. Private-sector employers could be reimbursed for all or part of the cost of their employees' assignment with the federal government. Alternatively,

H.R. 3925 would allow for federal agencies to accept voluntary employment services.

CBO estimates that implementing H.R. 3925 would not result in significant federal costs. A recent report by the General Accounting Office indicates that the demand for qualified information technology workers will exceed the supply, hence it is unlikely that private-sector employers will be willing to part with many such employees for extended periods. Any exchange of employees that involved reimbursement to the private sector would be subject to the availability of appropriated funds for salary, training, and educational expenses.

H.R. 3925 would not affect direct spending or receipts, so pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The District of Columbia could benefit from provisions of the bill that would authorize employees in the Office of the Chief Technology Officer to be assigned to a private-sector organization or an employee of such organizations to be assigned to the Office.

The CBO staff contacts for this estimate are Matthew Pickford (for federal costs), and Susan Sieg Tompkins (for the state and local impact). The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis Division.

COMMITTEE RECOMMENDATION

On March 14, 2002, the Committee by voice vote favorably reported H.R. 3925, as amended, with the recommendation that that bill be agreed to and passed.

INFLATIONARY IMPACT STATEMENT

In accordance with rule XI, clause 2(1)(4) of the Rules of the House of Representatives, this legislation is assessed to have no inflationary impact on prices and costs in the operation of the national economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**TITLE 5, UNITED STATES CODE**

\* \* \* \* \*

**PART III—EMPLOYEES**

\* \* \* \* \*

**Subpart B—Employment and Retention**

31. Authority for Employment .....	3101
* * * * *	

37. Information Technology Exchange Program ..... 3701  
\* \* \* \* \*

**Subpart B—Employment and Retention**

**CHAPTER 31—AUTHORITY FOR EMPLOYMENT**

\* \* \* \* \*

**SUBCHAPTER I—EMPLOYMENT AUTHORITIES**

\* \* \* \* \*

**§ 3111. Acceptance of volunteer service**

(a) \* \* \*

\* \* \* \* \*

(d) *Notwithstanding section 1342 of title 31, the head of an agency may accept voluntary service for the United States under chapter 37 of this title and regulations of the Office of Personnel Management.*

\* \* \* \* \*

**CHAPTER 37—INFORMATION TECHNOLOGY EXCHANGE PROGRAM**

Sec.

3701. Definitions.

3702. General provisions.

3703. Assignment of employees to private sector organizations.

3704. Assignment of employees from private sector organizations.

3705. Application to Office of the Chief Technology Officer of the District of Columbia.

3706. Reporting requirement.

3707. Regulations.

**§ 3701. Definitions**

For purposes of this chapter—

(1) the term “agency” means an Executive agency, but does not include the General Accounting Office; and

(2) the term “detail” means—

(A) the assignment or loan of an employee of an agency to a private sector organization without a change of position from the agency that employs the individual, or

(B) the assignment or loan of an employee of a private sector organization to an agency without a change of position from the private sector organization that employs the individual,

whichever is appropriate in the context in which such term is used.

**§ 3702. General provisions**

(a) **ASSIGNMENT AUTHORITY.**—On request from or with the agreement of a private sector organization, and with the consent of the employee concerned, the head of an agency may arrange for the assignment of an employee of the agency to a private sector organization or an employee of a private sector organization to the agency. An eligible employee is an individual who—

- (1) works in the field of information technology management;
- (2) is considered an exceptional performer by the individual's current employer; and
- (3) is expected to assume increased information technology management responsibilities in the future.

An employee of an agency shall be eligible to participate in this program only if the employee is employed at the GS-11 level or above (or equivalent) and is serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service.

(b) **AGREEMENTS.**—Each agency that exercises its authority under this chapter shall provide for a written agreement between the agency and the employee concerned regarding the terms and conditions of the employee's assignment. In the case of an employee of the agency, the agreement shall—

- (1) require the employee to serve in the civil service, upon completion of the assignment, for a period equal to the length of the assignment; and
- (2) provide that, in the event the employee fails to carry out the agreement (except for good and sufficient reason, as determined by the head of the agency from which assigned) the employee shall be liable to the United States for payment of all expenses of the assignment.

An amount under paragraph (2) shall be treated as a debt due the United States.

(c) **TERMINATION.**—Assignments may be terminated by the agency or private sector organization concerned for any reason at any time.

(d) **DURATION.**—Assignments under this chapter shall be for a period of between 6 months and 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year, except that no assignment under this chapter may commence after the end of the 5-year period beginning on the date of the enactment of this chapter.

(e) **ASSISTANCE.**—The Chief Information Officers Council, by agreement with the Office of Personnel Management, may assist in the administration of this chapter, including by maintaining lists of potential candidates for assignment under this chapter, establishing mentoring relationships for the benefit of individuals who are given assignments under this chapter, and publicizing the program.

### **§3703. Assignment of employees to private sector organizations**

(a) **IN GENERAL.**—An employee of an agency assigned to a private sector organization under this chapter is deemed, during the period of the assignment, to be on detail to a regular work assignment in his agency.

(b) **COORDINATION WITH CHAPTER 81.**—Notwithstanding any other provision of law, an employee of an agency assigned to a private sector organization under this chapter is entitled to retain coverage, rights, and benefits under subchapter I of chapter 81, and employment during the assignment is deemed employment by the United States, except that, if the employee or the employee's dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account

of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

(c) *REIMBURSEMENTS.*—The assignment of an employee to a private sector organization under this chapter may be made with or without reimbursement by the private sector organization for the travel and transportation expenses to or from the place of assignment, subject to the same terms and conditions as apply with respect to an employee of a Federal agency or a State or local government under section 3375, and for the pay, or a part thereof, of the employee during assignment. Any reimbursements shall be credited to the appropriation of the agency used for paying the travel and transportation expenses or pay.

(d) *TORT LIABILITY; SUPERVISION.*—The Federal Tort Claims Act and any other Federal tort liability statute apply to an employee of an agency assigned to a private sector organization under this chapter. The supervision of the duties of an employee of an agency so assigned to a private sector organization may be governed by an agreement between the agency and the organization.

**§ 3704. Assignment of employees from private sector organizations**

(a) *IN GENERAL.*—An employee of a private sector organization assigned to an agency under this chapter is deemed, during the period of the assignment, to be on detail to such agency.

(b) *TERMS AND CONDITIONS.*—An employee of a private sector organization assigned to an agency under this chapter—

(1) may, notwithstanding section 209 of title 18, continue to receive pay and benefits from the private sector organization from which he is assigned;

(2) is deemed, notwithstanding subsection (a), to be an employee of the agency for the purposes of—

(A) chapter 73;

(B) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

(C) sections 1343, 1344, and 1349(b) of title 31;

(D) the Federal Tort Claims Act and any other Federal tort liability statute;

(E) the Ethics in Government Act of 1978;

(F) section 1043 of the Internal Revenue Code of 1986; and

(G) section 27 of the Office of Federal Procurement Policy Act; and

(3) is subject to such regulations as the President may prescribe.

The supervision of an employee of a private sector organization assigned to an agency under this chapter may be governed by agreement between the agency and the private sector organization concerned. Such an assignment may be made with or without reimbursement by the agency for the pay, or a part thereof, of the employee during the period of assignment, or for any contribution of the private sector organization to employee benefit systems.

(c) *COORDINATION WITH CHAPTER 81.*—An employee of a private sector organization assigned to an agency under this chapter who suffers disability or dies as a result of personal injury sustained

while performing duties during the assignment shall be treated, for the purpose of subchapter I of chapter 81, as an employee as defined by section 8101 who had sustained the injury in the performance of duty, except that, if the employee or the employee's dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

**§ 3705. Application to Office of the Chief Technology Officer of the District of Columbia**

(a) *IN GENERAL.*—The Chief Technology Officer of the District of Columbia may arrange for the assignment of an employee of the Office of the Chief Technology Officer to a private sector organization, or an employee of a private sector organization to such Office, in the same manner as the head of an agency under this chapter.

(b) *TERMS AND CONDITIONS.*—An assignment made pursuant to subsection (a) shall be subject to the same terms and conditions as an assignment made by the head of an agency under this chapter, except that in applying such terms and conditions to an assignment made pursuant to subsection (a), any reference in this chapter to a provision of law or regulation of the United States shall be deemed to be a reference to the applicable provision of law or regulation of the District of Columbia, including the applicable provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1-601.01 et seq., D.C. Official Code) and section 601 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act (sec. 1-1106.01, D.C. Official Code).

(c) *DEFINITION.*—For purposes of this section, the term “Office of the Chief Technology Officer” means the office established in the executive branch of the government of the District of Columbia under the Office of the Chief Technology Officer Establishment Act of 1998 (sec. 1-1401 et seq., D.C. Official Code).

**§ 3706. Reporting requirement**

(a) *IN GENERAL.*—The Office of Personnel Management shall, not later than April 30 and October 31 of each year, prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a semiannual report summarizing the operation of this chapter during the immediately preceding 6-month period ending on March 31 and September 30, respectively.

(b) *CONTENT.*—Each report shall include, with respect to the 6-month period to which such report relates—

(1) the total number of individuals assigned to, and the total number of individuals assigned from, each agency during such period;

(2) a brief description of each assignment included under paragraph (1), including—

(A) the name of the assigned individual, as well as the private sector organization and the agency (including the specific bureau or other agency component) to or from which such individual was assigned;

(B) the respective positions to and from which the individual was assigned, including the duties and responsibilities and the pay grade or level associated with each; and  
(C) the duration and objectives of the individual's assignment; and

(3) such other information as the Office considers appropriate.

(c) PUBLICATION.—A copy of each report submitted under subsection (a)—

(1) shall be published in the Federal Register; and

(2) shall be made publicly available on the Internet.

(d) AGENCY COOPERATION.—On request of the Office, agencies shall furnish such information and reports as the Office may require in order to carry out this section.

**§ 3707. Regulations**

The Director of the Office of Personnel Management shall prescribe regulations for the administration of this chapter.

**Subpart C—Employee Performance**

**CHAPTER 41—TRAINING**

\* \* \* \* \*

**§ 4108. Employee agreements; service after training**

(a) \* \* \*

\* \* \* \* \*

[(d) For purposes of this section, "training" includes a private sector assignment of an employee participating in the Executive Exchange Program of the President's Commission on Executive Exchange.]

\* \* \* \* \*

**Subpart F—Labor-Management and Employee Relations**

\* \* \* \* \*

**CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT**

\* \* \* \* \*

**SUBCHAPTER V—MISCONDUCT**

\* \* \* \* \*

**§ 7353. Gifts to Federal employees**

(a) \* \* \*

(b)(1) \* \* \*

\* \* \* \* \*

(4) Nothing in this section precludes an employee of a private sector organization, while assigned to an agency under chapter 37,

*from continuing to receive pay and benefits from such organization in accordance with such chapter.*

\* \* \* \* \*

**TITLE 18, UNITED STATES CODE**

\* \* \* \* \*

**PART I—CRIMES**

\* \* \* \* \*

**CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST**

\* \* \* \* \*

**§ 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches**

(a) \* \* \*

\* \* \* \* \*

(c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

(1) \* \* \*

(2) PERSONS TO WHOM RESTRICTIONS APPLY.—(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))—

(i) \* \* \*

(iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3, **[or]**

(iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O-7 or above~~1.~~; or

(v) an employee of a private sector organization assigned to an agency under chapter 37 of title 5.

\* \* \* \* \*

*(l) CONTRACT ADVICE BY FORMER DETAILS.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 216 of this title.*

\* \* \* \* \*

**CHAPTER 93—PUBLIC OFFICERS AND EMPLOYEES**

\* \* \* \* \*

**§ 1905. Disclosure of confidential information generally**

Whoever, being an officer or employee of the United States or of any department or agency thereof, any person acting on behalf of the Office of Federal Housing Enterprise Oversight, or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311–1314), *or being an employee of a private sector organization who is, or was within the past three years, assigned to an agency under chapter 37 of title 5*, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined under this title, or imprisoned not more than one year, or both; and shall be removed from office or employment.

\* \* \* \* \*

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**SECTION 27 OF THE OFFICE OF THE FEDERAL  
PROCUREMENT POLICY ACT**

**SEC. 27. RESTRICTIONS ON DISCLOSING AND OBTAINING CONTRACTOR BID OR PROPOSAL INFORMATION OR SOURCE SELECTION INFORMATION.**

(a) PROHIBITION ON DISCLOSING PROCUREMENT INFORMATION.—

(1) A person described in paragraph (2) shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates. *In the case of an employee of a private sector organization assigned to an agency under chapter 37 of title 5, United States Code, in addition to the restriction in the preceding sentence, such employee shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information during the three-year period after the end of the assignment of such employee.*

\* \* \* \* \*

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**SECTION 125 OF THE ACT OF JANUARY 8, 1988**

(Public Law 100-238)

AN ACT Making technical corrections relating to the Federal Employees' Retirement System, and for other purposes

**SEC. 125. ELIGIBILITY OF CERTAIN INDIVIDUALS TO PARTICIPATE IN THE THRIFT SAVINGS PLAN.**

(a) \* \* \*

\* \* \* \* \*

(c) **APPLICABILITY.**—This section applies with respect to—

(1) any individual participating in the Civil Service Retirement System or the Federal Employees' Retirement System as—

(A) \* \* \*

(B) an individual assigned from a Federal agency to a State or local government under subchapter VI of chapter 33 of title 5, United States Code; **[or]**

(C) an individual appointed or otherwise assigned to one of the cooperative extension services, as defined by section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5)); **[and]**  
*or*

(D) *an individual assigned from a Federal agency to a private sector organization under chapter 37 of title 5, United States Code; and*

\* \* \* \* \*

ADDITIONAL VIEWS OF REPRESENTATIVE HENRY A. WAXMAN

The majority has worked with me and other members of the minority to incorporate changes to H.R. 3925 which we suggested. This was done in good faith and many of our suggestions we adopted.

However, I continue to have serious reservations about this bill. I believe that blurring the line between the public sector and the private sector creates unnecessary conflicts of interest. There has been an attempt to deal with these problems by applying conflict of interest rules to the private sector employees who enter the federal workforce. But I am not sure that these rules alone will prevent abuses.

Further, under the bill as reported, a private sector employee, while working in the federal government, will have access to trade secrets of competitors and other sensitive commercial information. The bill expressly allows the private sector employee to disclose these trade secrets after just three years. I do not believe that this is wise public policy. Private sector employees should not have access to trade secrets or other sensitive nonpublic information that affects their private sector employer.

I also have concerns about the precedent of sending federal employees, who are paid by the taxpayer, to work for private sector employers for up to two years. I think this could be a new and potentially egregious form of corporate welfare. Under this bill as written, we could have a new type of federal subsidy for industry: federal employees, paid with taxpayer money, could be sent to private corporations for up to two years to help those corporations with their information technology work.

The majority maintains that this isn't a serious problem because the bill calls for an "exchange" of private sector workers for federal workers, so the cost of sending public workers to the private sector would be offset by the benefit of having private workers serve in the public sector. The problem is that there is no requirement for a one-to-one exchange in the bill. In fact, there are no limits at all on the number of federal workers who can be sent to the private sector.

The majority also suggest that sending federal workers to the private sector makes sense because they will receive good "training." But again, there is no such requirement in the bill. Section 3702 of the bill states:

On request from \* \* \* a private sector organization,  
\* \* \* the head of an agency may arrange for the assignment of an employee of the agency to a private sector organization.

There is no requirement that the assignment accomplish any training objective. This is a blank check to send federal workers,

at taxpayer expense, to serve the private sector. The only precondition is that there be a request from the private sector.

During the markup of this legislation, I offered an amendment to address this flaw. The amendment would have established a comprehensive training program for information technology workers, run by the Office of Personnel Management. This training program is a well thought-out training program that is taken directly from H.R. 2458, which was introduced by the ranking member of the Subcommittee, Mr. Turner. The only change I have made to Mr. Turner's proposal is to add a provision that says explicitly that out-placements to the private sector can be included as part of the training program.

The majority's stated position is that the exchange program for IT workers is a form of training, particularly when federal workers are going to the private sector. If that is the case, then the exchange program should be run by those with expertise in training, and who can properly place such a program in the context of the overall training needs of the federal government's IT workforce. That is exactly what my amendment would have done.

Without my amendment, there are no limits on the program as written. Any number of well-paid senior managers—GS 11s to 15s, making up to \$107,357 a year—could be sent to private industry. The federal government could spend well over a million dollars on just five people for this type of "training."

Everyone agrees that there is a need for more training. A recent report by the National Academy of Public Administration found that one of the major problems in the federal IT workforce was a "lack of investment in continuous learning within the federal government. This failure is especially problematic in the dynamic and rapidly changing world of IT. Such an environment makes it essentially to invest in people." My amendment would have directly addressed this lack of training while placing commonsense limits on the placement of federal employees in the private sector.

I also remain concerned about the possibility that the cost of private sector workers coming into the federal sector may ultimately be borne by the taxpayer. Under the bill, employees from the private sector would continue to be paid by their company while on detail to the federal government. Unfortunately, the costs of private sector employees' salary and benefits while on detail could be billed back to the federal government as overhead on certain contracts. This is clearly contrary to the spirit of the bill and should be corrected before final passage.

HENRY A. WAXMAN.

