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H. R. 2227

To modernize Government information technology, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2017

Mr. HURD (for himself, Mr. CONNOLLY, Ms. KELLY of Illinois, Mr. CHAFFETZ, Mr. CUMMINGS, Mr. TED LIEU of California, Mr. KHANNA, Mr. KILMER, Mrs. COMSTOCK, Mr. YODER, Mr. TAYLOR, and Ms. GRANGER) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To modernize Government information technology, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Modernizing Govern-
5 ment Technology Act of 2017” or the “MGT Act”.

6 **SEC. 2. FINDINGS; PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

1 (1) The Federal Government spends nearly 75
2 percent of its annual information technology funding
3 on operating and maintaining existing legacy infor-
4 mation technology systems. These systems can pose
5 operational risks, including rising costs and inability
6 to meet mission requirements. These systems also
7 pose security risks, including the inability to use cur-
8 rent security best practices, such as data encryption
9 and multi-factor authentication, making these sys-
10 tems particularly vulnerable to malicious cyber activ-
11 ity.

12 (2) In 2015, the Government Accountability Of-
13 fice (GAO) designated Improving the Management
14 of IT Acquisitions and Operations to its biannual
15 High Risk List and identified as a particular con-
16 cern the increasing level of information technology
17 spending on operations and maintenance, making
18 less funding available for development or moderniza-
19 tion. The GAO also found the Government has spent
20 billions on failed and poorly performing information
21 technology investments due to a lack of effective
22 oversight.

23 (3) The Federal Government must modernize
24 Federal IT systems to mitigate existing operational
25 and security risks.

1 (4) The efficiencies, cost savings, and greater
2 computing power offered by modernized solutions,
3 such as cloud computing, have the potential to—

4 (A) eliminate inappropriate duplication and
5 reduce costs;

6 (B) address the critical need for cybersecu-
7 rity by design; and

8 (C) move the Federal Government into a
9 broad, digital-services delivery model that will
10 transform the ability of the Federal Govern-
11 ment to meet mission requirements and deliver
12 services to the American people.

13 (b) PURPOSES.—The purposes of this Act are the fol-
14 lowing:

15 (1) Assist the Federal Government in modern-
16 ized Federal information technology to mitigate cur-
17 rent operational and security risks.

18 (2) Incentivize cost savings in Federal informa-
19 tion technology through modernization.

20 (3) Accelerate the acquisition and deployment
21 of modernized information technology solutions, such
22 as cloud computing, by addressing impediments in
23 the areas of funding, development, and acquisition
24 practices.

1 **SEC. 3. ESTABLISHMENT OF AGENCY INFORMATION TECH-**
2 **NOLOGY SYSTEMS MODERNIZATION AND**
3 **WORKING CAPITAL FUNDS.**

4 (a) INFORMATION TECHNOLOGY SYSTEM MOD-
5 ERNIZATION AND WORKING CAPITAL FUNDS.—

6 (1) ESTABLISHMENT.—The head of a covered
7 agency may establish within such agency an infor-
8 mation technology system modernization and work-
9 ing capital fund (in this section referred to as the
10 “IT working capital fund”) for necessary expenses
11 described in paragraph (3).

12 (2) SOURCE OF FUNDS.—The following
13 amounts may be deposited into an IT working cap-
14 ital fund:

15 (A) Reprogramming and transfer of funds
16 made available in appropriations Acts subse-
17 quent to the date of the enactment of this Act,
18 including transfer of any funds for the oper-
19 ation and maintenance of legacy information
20 technology systems, in compliance with any ap-
21 plicable reprogramming law or guidelines of the
22 Committees on Appropriations of the House of
23 Representatives and the Senate.

24 (B) Amounts made available to the IT
25 working capital fund through discretionary ap-

1 appropriations made available subsequent to the
2 date of the enactment of this Act.

3 (3) USE OF FUNDS.—An IT working capital
4 fund established under paragraph (1) may be used,
5 subject to the availability of appropriations, only for
6 the following:

7 (A) To improve, retire, or replace existing
8 information technology systems in the covered
9 agency to enhance cybersecurity and to improve
10 efficiency and effectiveness.

11 (B) To transition legacy information tech-
12 nology systems at the covered agency to cloud
13 computing and other innovative platforms and
14 technologies, including those serving more than
15 one covered agency with common requirements.

16 (C) To assist and support covered agency
17 efforts to provide adequate, risk-based, and
18 cost-effective information technology capabilities
19 that address evolving threats to information se-
20 curity.

21 (D) To reimburse funds transferred to the
22 covered agency from the Technology Moderniza-
23 tion Fund established under section 4, with the
24 approval of the Chief Information Officer of the
25 covered agency.

1 (4) EXISTING FUNDS.—An IT working capital
2 fund may not be used to supplant funds provided for
3 the operation and maintenance of any system within
4 an appropriation for the covered agency at the time
5 of establishment of the IT working capital fund.

6 (5) PRIORITIZATION OF FUNDS.—The head of
7 each covered agency shall prioritize funds within the
8 IT working capital fund to be used initially for cost
9 savings activities approved by the Chief Information
10 Officer of the covered agency, in consultation with
11 the Administrator of the Office of Electronic Gov-
12 ernment. The head of each covered agency may re-
13 program and transfer any amounts saved as a direct
14 result of such activities for deposit into the applica-
15 ble IT working capital fund, consistent with para-
16 graph (2)(A).

17 (6) RETURN OF FUNDS.—Any funds deposited
18 into an IT working capital fund shall be available
19 for obligation for three years after the last day of
20 the fiscal year in which such funds were deposited.

21 (7) AGENCY CIO RESPONSIBILITIES.—In evalu-
22 ating projects to be funded from the IT working
23 capital fund, the Chief Information Officer of the
24 covered agency shall consider, to the extent applica-
25 ble, guidance issued pursuant to section 4(a)(1) to

1 evaluate applications for funding from the Tech-
2 nology Modernization Fund established under that
3 section that include factors such as a strong busi-
4 ness case, technical design, procurement strategy
5 (including adequate use of incremental software de-
6 velopment practices), and program management.

7 (b) REPORTING REQUIREMENT.—

8 (1) IN GENERAL.—Not later than one year
9 after the date of the enactment of this Act, and
10 every six months thereafter, the head of each cov-
11 ered agency shall submit to the Director the fol-
12 lowing, with respect to the IT working capital fund
13 for the covered agency:

14 (A) A list of each information technology
15 investment funded with estimated cost and
16 completion date for each such investment.

17 (B) A summary by fiscal year of obliga-
18 tions, expenditures, and unused balances.

19 (2) PUBLIC AVAILABILITY.—The Director shall
20 make the information submitted under paragraph
21 (1) publicly available on a website.

22 (c) COVERED AGENCY DEFINED.—In this section,
23 the term “covered agency” means each agency listed in
24 section 901(b) of title 31, United States Code.

1 **SEC. 4. ESTABLISHMENT OF TECHNOLOGY MODERNIZA-**
2 **TION FUND AND BOARD.**

3 (a) TECHNOLOGY MODERNIZATION FUND.—

4 (1) ESTABLISHMENT.—There is established in
5 the Treasury a Technology Modernization Fund (in
6 this section referred to as the “Fund”) for tech-
7 nology-related activities, to improve information
8 technology, to enhance cybersecurity across the Fed-
9 eral Government, and to be administered in accord-
10 ance with guidance issued by the Director.

11 (2) ADMINISTRATION OF FUND.—The Commis-
12 sioner of the Technology Transformation Service of
13 the General Services Administration, in consultation
14 with the Chief Information Officers Council and
15 with the approval of the Director, shall administer
16 the Fund in accordance with this subsection.

17 (3) USE OF FUNDS.—The Commissioner shall,
18 in accordance with the recommendations of the
19 Technology Modernization Board established under
20 subsection (b), use amounts in the Fund for the fol-
21 lowing purposes:

22 (A) To transfer such amounts, to remain
23 available until expended, to the head of an
24 agency to improve, retire, or replace existing
25 Federal information technology systems to en-

hance cybersecurity and improve efficiency and effectiveness.

(B) For the development, operation, and procurement of information technology products, services, and acquisition vehicles for use by agencies to improve Governmentwide efficiency and cybersecurity in accordance with the requirements of such agencies.

(C) To provide services or work performed in support of the activities described under subparagraph (A) or (B).

(4) AUTHORIZATION OF APPROPRIATIONS;
CREDITS; AVAILABILITY OF FUNDS.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund \$250,000,000 for each of fiscal years 2018 and 2019.

(B) CREDITS.—In addition to any funds otherwise appropriated, the Fund shall be credited with all reimbursements, advances, or refunds or recoveries relating to information technology or services provided through the Fund.

(C) AVAILABILITY OF FUNDS.—Amounts deposited, credited, or otherwise made available to the Fund shall be available, as provided in

1 appropriations Acts, until expended for the pur-
2 poses described in paragraph (3).

3 (5) REIMBURSEMENT.—

4 (A) PAYMENT BY AGENCY.—For a product
5 or service developed under paragraph (3)(B),
6 including any services or work performed in
7 support of such development under paragraph
8 (3)(C), the head of an agency that uses such
9 product or service shall pay an amount fixed by
10 the Commissioner in accordance with this para-
11 graph.

12 (B) REIMBURSEMENT BY AGENCY.—The
13 head of an agency shall reimburse the Fund for
14 any transfer made under paragraph (3)(A), in-
15 cluding any services or work performed in sup-
16 port of such transfer under paragraph (3)(C),
17 in accordance with the terms established in a
18 written agreement described in paragraph (6).
19 Notwithstanding any other provision of law, an
20 agency may make a reimbursement required by
21 this subparagraph from any appropriation made
22 available subsequent to the date of the enact-
23 ment of this Act for information technology ac-
24 tivities, consistent with any applicable re-
25 programming law or guidelines of the Commit-

tees on Appropriations of the House of Representatives and the Senate. An obligation to make a payment under a written agreement described in paragraph (6) in a fiscal year after the date of the enactment of this Act shall be recorded pursuant to section 1501 of title 31, United States Code, in the fiscal year in which the payment is due.

(C) PRICES FIXED BY COMMISSIONER.—

The Commissioner, in consultation with the Director, shall establish amounts to be paid by an agency and terms of repayment for use of a product or service developed under paragraph (3)(B), including any services or work performed in support of such development under paragraph (3)(C), at levels sufficient to ensure the solvency of the Fund, including operating expenses. Before making any changes to the established amounts and terms of repayment, the Commissioner shall conduct a review and obtain approval from the Director.

(D) FAILURE TO MAKE TIMELY REIM-

BURSEMENT.—The Commissioner may obtain reimbursement by the issuance of transfer and counterwarrants, or other lawful transfer docu-

ments, supported by itemized bills, if payment is not made by an agency—

(i) within 90 days after the expiration of a repayment period described in a written agreement described in paragraph (6); or

(ii) within 45 days after the expiration of the time period to make a payment under a payment schedule for a product or service developed under paragraph (3)(B).

(6) WRITTEN AGREEMENT.—

(A) IN GENERAL.—Before the transfer of funds to an agency under paragraph (3)(A), the Commissioner (in consultation with the Director) and the head of the requisitioning agency shall enter into a written agreement documenting the purpose for which the funds will be used and the terms of repayment, which may not exceed five years unless approved by the Director. An agreement made pursuant to this subparagraph shall be recorded as an obligation as provided in paragraph (5)(B).

(B) REQUIREMENT FOR USE OF INCREMENTAL DEVELOPMENT PRACTICES.—For any funds transferred to an agency under para-

graph (3)(A), in the absence of compelling circumstances documented by the Commissioner at the time of transfer, such funds shall be transferred only on an incremental basis, tied to metric-based development milestones achieved by the agency, to be described in a written agreement required under subparagraph (A).

(7) REPORTING REQUIREMENT.—Not later than six months after the date of the enactment of this Act, the Director shall publish and maintain a list of each project funded by the Fund on a public website, to be updated not less than quarterly, that includes a description of the project, project status (including any schedule delay and cost overruns), and financial expenditure data related to the project.

(b) TECHNOLOGY MODERNIZATION BOARD.—

(1) ESTABLISHMENT.—There is established a Technology Modernization Board (in this section referred to as the “Board”) to evaluate proposals submitted by agencies for funding authorized under the Fund.

(2) RESPONSIBILITIES.—The responsibilities of the Board are the following:

(A) Provide input to the Director for the development of processes for agencies to submit

1 modernization proposals to the Board and to
2 establish the criteria by which such proposals
3 are evaluated, which shall include addressing
4 the greatest security and operational risks, hav-
5 ing the greatest Governmentwide impact, and
6 having a high probability of success based on
7 factors such as a strong business case, technical
8 design, procurement strategy (including ade-
9 quate use of incremental software development
10 practices), and program management.

11 (B) Make recommendations to the Com-
12 missioner to assist agencies in the further devel-
13 opment and refinement of select submitted
14 modernization proposals, based on an initial
15 evaluation performed with the assistance of the
16 Commissioner.

17 (C) Review and prioritize, with the assist-
18 ance of the Commissioner and the Director,
19 modernization proposals based on criteria estab-
20 lished pursuant to subparagraph (A).

21 (D) Identify, with the assistance of the
22 Commissioner, opportunities to improve or re-
23 place multiple information technology systems
24 with a smaller number of information tech-
25 nology systems common to multiple agencies.

1 (E) Recommend the funding of moderniza-
2 tion projects, in accordance with the uses de-
3 scribed in subsection (a)(3), to the Commis-
4 sioner.

5 (F) Monitor, in consultation with the Com-
6 missioner, progress and performance in exe-
7 cuting approved projects and, if necessary, rec-
8 ommend the suspension or termination of fund-
9 ing for projects based on factors such as failure
10 to meet the terms of a written agreement de-
11 scribed in subsection (a)(6).

12 (G) Monitor operating costs of the Fund.

13 (3) MEMBERSHIP.—The Board shall consist of
14 eight voting members.

15 (4) CHAIR.—The Chair of the Board shall be
16 the Administrator of the Office of Electronic Gov-
17 ernment.

18 (5) PERMANENT MEMBERS.—The permanent
19 members of the Board shall be the following:

20 (A) The Administrator of the Office of
21 Electronic Government.

22 (B) A senior official from the General
23 Services Administration having technical exper-
24 tise in information technology development, ap-

1 pointed by the Administrator of General Serv-
2 ices, with the approval of the Director.

3 (6) ADDITIONAL MEMBERS OF THE BOARD.—

4 (A) APPOINTMENT.—The other members
5 of the Board shall be appointed as follows:

6 (i) One employee of the National Pro-
7 tection and Programs Directorate of the
8 Department of Homeland Security, ap-
9 pointed by the Secretary of Homeland Se-
10 curity.

11 (ii) One employee of the Department
12 of Defense, appointed by the Secretary of
13 Defense.

14 (iii) Four Federal employees primarily
15 having technical expertise in information
16 technology development, financial manage-
17 ment, cybersecurity and privacy, and ac-
18 quisition, appointed by the Director.

19 (B) TERM.—Each member of the Board
20 described in paragraph (A) shall serve a term
21 of one year, which shall be renewable up to
22 three times, at the discretion of the appointing
23 Secretary or Director, as applicable.

24 (7) PROHIBITION ON COMPENSATION.—Mem-
25 bers of the Board may not receive additional pay, al-

1 lowances, or benefits by reason of their service on
2 the Board.

3 (8) STAFF.—Upon request of the Chair of the
4 Board, the Director and the Administrator of Gen-
5 eral Services may detail, on a nonreimbursable basis,
6 any of the personnel of the Office of Management
7 and Budget or the General Services Administration
8 (as the case may be) to the Board to assist the
9 Board in carrying out its functions under this Act.

10 (c) RESPONSIBILITIES OF COMMISSIONER.—

11 (1) IN GENERAL.—In addition to the respon-
12 sibilities described in subsection (a), the Commis-
13 sioner shall support the activities of the Board and
14 provide technical support to, and, with the concur-
15 rence of the Director, oversight of, agencies that re-
16 ceive transfers from the Fund.

17 (2) RESPONSIBILITIES.—The responsibilities of
18 the Commissioner are the following:

19 (A) Provide direct technical support in the
20 form of personnel services or otherwise to agen-
21 cies transferred amounts under subsection
22 (a)(3)(A) and for products, services, and acqui-
23 sition vehicles funded under subsection
24 (a)(3)(B).

1 (B) Assist the Board with the evaluation,
2 prioritization, and development of agency mod-
3 ernization proposals.

4 (C) Perform regular project oversight and
5 monitoring of approved agency modernization
6 projects, in consultation with the Board and the
7 Director, to increase the likelihood of successful
8 implementation and reduce waste.

9 (D) Provide the Director with information
10 necessary to meet the requirements of sub-
11 section (a)(7).

12 (d) AGENCY DEFINED.—In this section, the term
13 “agency” has the meaning given that term in section 551
14 of title 5, United States Code.

15 **SEC. 5. DEFINITIONS.**

16 In this Act:

17 (1) CLOUD COMPUTING.—The term “cloud
18 computing” has the meaning given that term by the
19 National Institute of Standards and Technology in
20 NIST Special Publication 800–145 and any amend-
21 atory or superseding document thereto.

22 (2) COMMISSIONER.—The term “Commis-
23 sioner” means the Commissioner of the Technology
24 Transformation Service of the General Services Ad-
25 ministration.

1 (3) DIRECTOR.—The term “Director” means
2 the Director of the Office of Management and Budg-
3 et.

4 (4) INFORMATION TECHNOLOGY.—The term
5 “information technology” has the meaning given
6 that term in section 3502 of title 44, United States
7 Code.

8 (5) LEGACY INFORMATION TECHNOLOGY SYS-
9 TEM.—The term “legacy information technology sys-
10 tem” means an outdated or obsolete system of infor-
11 mation technology.

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