

## Union Calendar No. 79

115TH CONGRESS  
1ST SESSION

# H. R. 2227

**[Report No. 115–129, Part I]**

To modernize Government information technology, and for other purposes.

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### 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

MAY 17, 2017

Additional sponsors: Mr. MCCARTHY, Mr. HOYER, Mrs. DEMINGS, Ms. DELBENE, Mr. FARENTHOLD, Mr. ISSA, and Mr. RUPPERSBERGER

MAY 17, 2017

Reported from the Committee on Oversight and Government Reform

MAY 17, 2017

The Committee on Appropriations discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

# **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:

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

19 (2) In 2015, the Government Accountability Of-  
20 fice (GAO) designated Improving the Management  
21 of IT Acquisitions and Operations to its biannual  
22 High Risk List and identified as a particular con-  
23 cern the increasing level of information technology  
24 spending on operations and maintenance, making  
25 less funding available for development or moderniza-

1       tion. The GAO also found the Government has spent  
2       billions on failed and poorly performing information  
3       technology investments due to a lack of effective  
4       oversight.

5           (3) The Federal Government must modernize  
6       Federal IT systems to mitigate existing operational  
7       and security risks.

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

11           (A) eliminate inappropriate duplication and  
12      reduce costs;

13           (B) address the critical need for cybersecu-  
14      rity by design; and

15           (C) move the Federal Government into a  
16      broad, digital-services delivery model that will  
17      transform the ability of the Federal Govern-  
18      ment to meet mission requirements and deliver  
19      services to the American people.

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

22           (1) Assist the Federal Government in modern-  
23      ized Federal information technology to mitigate cur-  
24      rent operational and security risks.

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

3           (3) Accelerate the acquisition and deployment  
4           of modernized information technology solutions, such  
5           as cloud computing, by addressing impediments in  
6           the areas of funding, development, and acquisition  
7           practices.

8 **SEC. 3. ESTABLISHMENT OF AGENCY INFORMATION TECH-**  
9 **NOLOGY SYSTEMS MODERNIZATION AND**  
10 **WORKING CAPITAL FUNDS.**

11       (a) INFORMATION TECHNOLOGY SYSTEM MOD-  
12 ERNIZATION AND WORKING CAPITAL FUNDS.—

13           (1) ESTABLISHMENT.—The head of a covered  
14           agency may establish within such agency an infor-  
15           mation technology system modernization and work-  
16           ing capital fund (in this section referred to as the  
17           “IT working capital fund”) for necessary expenses  
18           described in paragraph (3).

19           (2) SOURCE OF FUNDS.—The following  
20           amounts may be deposited into an IT working cap-  
21           ital fund:

22               (A) Reprogramming and transfer of funds  
23               made available in appropriations Acts subse-  
24               quent to the date of the enactment of this Act,  
25               including transfer of any funds for the oper-

1           ation and maintenance of legacy information  
2           technology systems, in compliance with any ap-  
3           plicable reprogramming law or guidelines of the  
4           Committees on Appropriations of the House of  
5           Representatives and the Senate.

6           (B) Amounts made available to the IT  
7           working capital fund through discretionary ap-  
8           propriations made available subsequent to the  
9           date of the enactment of this Act.

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

14                (A) To improve, retire, or replace existing  
15                information technology systems in the covered  
16                agency to enhance cybersecurity and to improve  
17                efficiency and effectiveness.

18                (B) To transition legacy information tech-  
19                nology systems at the covered agency to cloud  
20                computing and other innovative platforms and  
21                technologies, including those serving more than  
22                one covered agency with common requirements.

23                (C) To assist and support covered agency  
24                efforts to provide adequate, risk-based, and  
25                cost-effective information technology capabilities

1           that address evolving threats to information se-  
2           curity.

3           (D) To reimburse funds transferred to the  
4           covered agency from the Technology Moderniza-  
5           tion Fund established under section 4, with the  
6           approval of the Chief Information Officer of the  
7           covered agency.

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

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

24          (6) RETURN OF FUNDS.—Any funds deposited  
25          into an IT working capital fund shall be available

1 for obligation for three years after the last day of  
2 the fiscal year in which such funds were deposited.

3 (7) AGENCY CIO RESPONSIBILITIES.—In evalu-  
4 ating projects to be funded from the IT working  
5 capital fund, the Chief Information Officer of the  
6 covered agency shall consider, to the extent applica-  
7 ble, guidance issued pursuant to section 4(a)(1) to  
8 evaluate applications for funding from the Tech-  
9 nology Modernization Fund established under that  
10 section that include factors such as a strong busi-  
11 ness case, technical design, procurement strategy  
12 (including adequate use of incremental software de-  
13 velopment practices), and program management.

14 (b) REPORTING REQUIREMENT.—

15 (1) IN GENERAL.—Not later than one year  
16 after the date of the enactment of this Act, and  
17 every six months thereafter, the head of each cov-  
18 ered agency shall submit to the Director the fol-  
19 lowing, with respect to the IT working capital fund  
20 for the covered agency:

21 (A) A list of each information technology  
22 investment funded with estimated cost and  
23 completion date for each such investment.

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



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

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

7       **SEC. 4. ESTABLISHMENT OF TECHNOLOGY MODERNIZA-**  
8                               **TION FUND AND BOARD.**

9           (a) TECHNOLOGY MODERNIZATION FUND.—

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

17          (2) ADMINISTRATION OF FUND.—The Commis-  
18       sioner of the Technology Transformation Service of  
19       the General Services Administration, in consultation  
20       with the Chief Information Officers Council and  
21       with the approval of the Director, shall administer  
22       the Fund in accordance with this subsection.

23          (3) USE OF FUNDS.—The Commissioner shall,  
24       in accordance with the recommendations of the  
25       Technology Modernization Board established under

1 subsection (b), use amounts in the Fund for the fol-  
2 lowing purposes:

3 (A) To transfer such amounts, to remain  
4 available until expended, to the head of an  
5 agency to improve, retire, or replace existing  
6 Federal information technology systems to en-  
7 hance cybersecurity and improve efficiency and  
8 effectiveness.

9 (B) For the development, operation, and  
10 procurement of information technology prod-  
11 ucts, services, and acquisition vehicles for use  
12 by agencies to improve Governmentwide effi-  
13 ciency and cybersecurity in accordance with the  
14 requirements of such agencies.

15 (C) To provide services or work performed  
16 in support of the activities described under sub-  
17 paragraph (A) or (B).

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

20 (A) AUTHORIZATION OF APPROPRIA-  
21 TIONS.—There is authorized to be appropriated  
22 to the Fund \$250,000,000 for each of fiscal  
23 years 2018 and 2019.

24 (B) CREDITS.—In addition to any funds  
25 otherwise appropriated, the Fund shall be cred-

1           ited with all reimbursements, advances, or re-  
2           funds or recoveries relating to information tech-  
3           nology or services provided through the Fund.

4           (C) AVAILABILITY OF FUNDS.—Amounts  
5           deposited, credited, or otherwise made available  
6           to the Fund shall be available, as provided in  
7           appropriations Acts, until expended for the pur-  
8           poses described in paragraph (3).

9           (5) REIMBURSEMENT.—

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

18          (B) REIMBURSEMENT BY AGENCY.—The  
19          head of an agency shall reimburse the Fund for  
20          any transfer made under paragraph (3)(A), in-  
21          cluding any services or work performed in sup-  
22          port of such transfer under paragraph (3)(C),  
23          in accordance with the terms established in a  
24          written agreement described in paragraph (6).  
25          Notwithstanding any other provision of law, an

1 agency may make a reimbursement required by  
2 this subparagraph from any appropriation made  
3 available subsequent to the date of the enact-  
4 ment of this Act for information technology ac-  
5 tivities, consistent with any applicable re-  
6 programming law or guidelines of the Commit-  
7 tees on Appropriations of the House of Rep-  
8 resentatives and the Senate. An obligation to  
9 make a payment under a written agreement de-  
10 scribed in paragraph (6) in a fiscal year after  
11 the date of the enactment of this Act shall be  
12 recorded pursuant to section 1501 of title 31,  
13 United States Code, in the fiscal year in which  
14 the payment is due.

15 (C) PRICES FIXED BY COMMISSIONER.—

16 The Commissioner, in consultation with the Di-  
17 rector, shall establish amounts to be paid by an  
18 agency and terms of repayment for use of a  
19 product or service developed under paragraph  
20 (3)(B), including any services or work per-  
21 formed in support of such development under  
22 paragraph (3)(C), at levels sufficient to ensure  
23 the solvency of the Fund, including operating  
24 expenses. Before making any changes to the es-  
25 tablished amounts and terms of repayment, the

1 Commissioner shall conduct a review and obtain  
2 approval from the Director.

3 (D) FAILURE TO MAKE TIMELY REIM-  
4 BURSEMENT.—The Commissioner may obtain  
5 reimbursement by the issuance of transfer and  
6 counterwarrants, or other lawful transfer docu-  
7 ments, supported by itemized bills, if payment  
8 is not made by an agency—

9 (i) within 90 days after the expiration  
10 of a repayment period described in a writ-  
11 ten agreement described in paragraph (6);  
12 or

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

17 (6) WRITTEN AGREEMENT.—

18 (A) IN GENERAL.—Before the transfer of  
19 funds to an agency under paragraph (3)(A), the  
20 Commissioner (in consultation with the Direc-  
21 tor) and the head of the requisitioning agency  
22 shall enter into a written agreement docu-  
23 menting the purpose for which the funds will be  
24 used and the terms of repayment, which may  
25 not exceed five years unless approved by the Di-

1 rector. An agreement made pursuant to this  
2 subparagraph shall be recorded as an obligation  
3 as provided in paragraph (5)(B).

4 (B) REQUIREMENT FOR USE OF INCRE-  
5 MENTAL DEVELOPMENT PRACTICES.—For any  
6 funds transferred to an agency under para-  
7 graph (3)(A), in the absence of compelling cir-  
8 cumstances documented by the Commissioner  
9 at the time of transfer, such funds shall be  
10 transferred only on an incremental basis, tied to  
11 metric-based development milestones achieved  
12 by the agency, to be described in a written  
13 agreement required under subparagraph (A).

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

22 (b) TECHNOLOGY MODERNIZATION BOARD.—

23 (1) ESTABLISHMENT.—There is established a  
24 Technology Modernization Board (in this section re-  
25 ferred to as the “Board”) to evaluate proposals sub-

1       mitted by agencies for funding authorized under the  
2       Fund.

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

5               (A) Provide input to the Director for the  
6       development of processes for agencies to submit  
7       modernization proposals to the Board and to  
8       establish the criteria by which such proposals  
9       are evaluated, which shall include addressing  
10      the greatest security and operational risks, hav-  
11      ing the greatest Governmentwide impact, and  
12      having a high probability of success based on  
13      factors such as a strong business case, technical  
14      design, procurement strategy (including ade-  
15      quate use of incremental software development  
16      practices), and program management.

17              (B) Make recommendations to the Com-  
18      missioner to assist agencies in the further devel-  
19      opment and refinement of select submitted  
20      modernization proposals, based on an initial  
21      evaluation performed with the assistance of the  
22      Commissioner.

23              (C) Review and prioritize, with the assist-  
24      ance of the Commissioner and the Director,

1 modernization proposals based on criteria estab-  
2 lished pursuant to subparagraph (A).

3 (D) Identify, with the assistance of the  
4 Commissioner, opportunities to improve or re-  
5 place multiple information technology systems  
6 with a smaller number of information tech-  
7 nology systems common to multiple agencies.

8 (E) Recommend the funding of moderniza-  
9 tion projects, in accordance with the uses de-  
10 scribed in subsection (a)(3), to the Commis-  
11 sioner.

12 (F) Monitor, in consultation with the Com-  
13 missioner, progress and performance in exe-  
14 cuting approved projects and, if necessary, rec-  
15 ommend the suspension or termination of fund-  
16 ing for projects based on factors such as failure  
17 to meet the terms of a written agreement de-  
18 scribed in subsection (a)(6).

19 (G) Monitor operating costs of the Fund.

20 (3) MEMBERSHIP.—The Board shall consist of  
21 eight voting members.

22 (4) CHAIR.—The Chair of the Board shall be  
23 the Administrator of the Office of Electronic Gov-  
24 ernment.



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

3           (A) The Administrator of the Office of  
4 Electronic Government.

5           (B) A senior official from the General  
6 Services Administration having technical exper-  
7 tise in information technology development, ap-  
8 pointed by the Administrator of General Serv-  
9 ices, with the approval of the Director.

10          (6) ADDITIONAL MEMBERS OF THE BOARD.—

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

13               (i) One employee of the National Pro-  
14 tection and Programs Directorate of the  
15 Department of Homeland Security, ap-  
16 pointed by the Secretary of Homeland Se-  
17 curity.

18               (ii) One employee of the Department  
19 of Defense, appointed by the Secretary of  
20 Defense.

21               (iii) Four Federal employees primarily  
22 having technical expertise in information  
23 technology development, financial manage-  
24 ment, cybersecurity and privacy, and ac-  
25 quisition, appointed by the Director.

1 (B) TERM.—Each member of the Board  
2 described in paragraph (A) shall serve a term  
3 of one year, which shall be renewable up to  
4 three times, at the discretion of the appointing  
5 Secretary or Director, as applicable.

6 (7) PROHIBITION ON COMPENSATION.—Mem-  
7 bers of the Board may not receive additional pay, al-  
8 lowances, or benefits by reason of their service on  
9 the Board.

10 (8) STAFF.—Upon request of the Chair of the  
11 Board, the Director and the Administrator of Gen-  
12 eral Services may detail, on a nonreimbursable basis,  
13 any of the personnel of the Office of Management  
14 and Budget or the General Services Administration  
15 (as the case may be) to the Board to assist the  
16 Board in carrying out its functions under this Act.

17 (c) RESPONSIBILITIES OF COMMISSIONER.—

18 (1) IN GENERAL.—In addition to the respon-  
19 sibilities described in subsection (a), the Commis-  
20 sioner shall support the activities of the Board and  
21 provide technical support to, and, with the concur-  
22 rence of the Director, oversight of, agencies that re-  
23 ceive transfers from the Fund.

24 (2) RESPONSIBILITIES.—The responsibilities of  
25 the Commissioner are the following:

1 (A) Provide direct technical support in the  
2 form of personnel services or otherwise to agen-  
3 cies transferred amounts under subsection  
4 (a)(3)(A) and for products, services, and acqui-  
5 sition vehicles funded under subsection  
6 (a)(3)(B).

7 (B) Assist the Board with the evaluation,  
8 prioritization, and development of agency mod-  
9 ernization proposals.

10 (C) Perform regular project oversight and  
11 monitoring of approved agency modernization  
12 projects, in consultation with the Board and the  
13 Director, to increase the likelihood of successful  
14 implementation and reduce waste.

15 (D) Provide the Director with information  
16 necessary to meet the requirements of sub-  
17 section (a)(7).

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

21 **SEC. 5. DEFINITIONS.**

22 In this Act:

23 (1) CLOUD COMPUTING.—The term “cloud  
24 computing” has the meaning given that term by the  
25 National Institute of Standards and Technology in

1 NIST Special Publication 800–145 and any amend-  
2 atory or superseding document thereto.

3 (2) COMMISSIONER.—The term “Commis-  
4 sioner” means the Commissioner of the Technology  
5 Transformation Service of the General Services Ad-  
6 ministration.

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

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

14 (5) LEGACY INFORMATION TECHNOLOGY SYS-  
15 TEM.—The term “legacy information technology sys-  
16 tem” means an outdated or obsolete system of infor-  
17 mation technology.



Union Calendar No. 79

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 2227**

[Report No. 115-129, Part I]

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## A BILL

To modernize Government information technology,  
and for other purposes.

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MAY 17, 2017

Reported from the Committee on Oversight and  
Government Reform

MAY 17, 2017

The Committee on Appropriations discharged; committed  
to the Committee of the Whole House on the State of  
the Union and ordered to be printed