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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R. 2227

To modernize Government information technology, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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 _____

A BILL

To modernize Government information technology, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Modernizing Government Technology Act of 2017" or the "MGT Act".

SEC. 2. FINDINGS; PURPOSES.

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

(1) The Federal Government spends nearly 75 percent of its annual information technology funding on operating and maintaining existing legacy information technology systems. These systems can pose operational risks, including rising costs and inability to meet mission requirements. These systems also pose security risks, including the inability to use current security best practices, such as data encryption and multi-factor authentication, making these systems particularly vulnerable to malicious cyber activity.

(2) In 2015, the Government Accountability Office (GAO) designated Improving the Management of IT Acquisitions and Operations to its biannual High Risk List and identified as a particular concern the increasing level of information technology spending on operations and maintenance, making less funding available for development or modernization. The GAO also found the Government has spent billions on failed and poorly performing information technology investments due to a lack of effective oversight.

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

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

(A) eliminate inappropriate duplication and reduce costs;

(B) address the critical need for cybersecurity by design; and

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

(b) PURPOSES.—The purposes of this Act are the following:

(1) Assist the Federal Government in modernized Federal information technology to mitigate current operational and security risks.

(2) Incentivize cost savings in Federal information technology through modernization.

(3) Accelerate the acquisition and deployment of modernized information technology solutions, such as cloud computing, by addressing impediments in the areas of funding, development, and acquisition 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 propriations 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-

1 hance cybersecurity and improve efficiency and
2 effectiveness.
3 (B) For the development, operation, and
4 procurement of information technology prod-
5 ucts, services, and acquisition vehicles for use
6 by agencies to improve Governmentwide effi-
7 ciency and cybersecurity in accordance with the
8 requirements of such agencies.
9 (C) To provide services or work performed
10 in support of the activities described under sub-
11 paragraph (A) or (B).
12 (4) AUTHORIZATION OF APPROPRIATIONS;
13 CREDITS; AVAILABILITY OF FUNDS.—
14 (A) AUTHORIZATION OF APPROPRIA-
15 TIONS.—There is authorized to be appropriated
16 to the Fund $250,000,000 for each of fiscal
17 years 2018 and 2019.
18 (B) CREDITS.—In addition to any funds
19 otherwise appropriated, the Fund shall be cred-
20 ited with all reimbursements, advances, or re-
21 funds or recoveries relating to information tech-
22 nology or services provided through the Fund.
23 (C) AVAILABILITY OF FUNDS.—Amounts
24 deposited, credited, or otherwise made available
25 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-

1 tees on Appropriations of the House of Rep-
2 resentatives and the Senate. An obligation to
3 make a payment under a written agreement de-
4 scribed in paragraph (6) in a fiscal year after
5 the date of the enactment of this Act shall be
6 recorded pursuant to section 1501 of title 31,
7 United States Code, in the fiscal year in which
8 the payment is due.

9 (C) PRICES FIXED BY COMMISSIONER.—
10 The Commissioner, in consultation with the Di-
11 rector, shall establish amounts to be paid by an
12 agency and terms of repayment for use of a
13 product or service developed under paragraph
14 (3)(B), including any services or work per-
15 formed in support of such development under
16 paragraph (3)(C), at levels sufficient to ensure
17 the solvency of the Fund, including operating
18 expenses. Before making any changes to the es-
19 tablished amounts and terms of repayment, the
20 Commissioner shall conduct a review and obtain
21 approval from the Director.

22 (D) FAILURE TO MAKE TIMELY REIM-
23 BURSEMENT.—The Commissioner may obtain
24 reimbursement by the issuance of transfer and
25 counterwarrants, or other lawful transfer docu-

1 ments, supported by itemized bills, if payment
2 is not made by an agency—
3 (i) within 90 days after the expiration
4 of a repayment period described in a writ-
5 ten agreement described in paragraph (6);
6 or
7 (ii) within 45 days after the expiration
8 of the time period to make a payment
9 under a payment schedule for a product or
10 service developed under paragraph (3)(B).
11 (6) WRITTEN AGREEMENT.—
12 (A) IN GENERAL.—Before the transfer of
13 funds to an agency under paragraph (3)(A), the
14 Commissioner (in consultation with the Direc-
15 tor) and the head of the requisitioning agency
16 shall enter into a written agreement docu-
17 menting the purpose for which the funds will be
18 used and the terms of repayment, which may
19 not exceed five years unless approved by the Di-
20 rector. An agreement made pursuant to this
21 subparagraph shall be recorded as an obligation
22 as provided in paragraph (5)(B).
23 (B) REQUIREMENT FOR USE OF INCRE-
24 MENTAL DEVELOPMENT PRACTICES.—For any
25 funds transferred to an agency under para-

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

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

16 (b) TECHNOLOGY MODERNIZATION BOARD.—

17 (1) ESTABLISHMENT.—There is established a
18 Technology Modernization Board (in this section re-
19 ferred to as the "Board") to evaluate proposals sub-
20 mitted by agencies for funding authorized under the
21 Fund.

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

24 (A) Provide input to the Director for the
25 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.

(E) Recommend the funding of modernization projects, in accordance with the uses described in subsection (a)(3), to the Commissioner.

(F) Monitor, in consultation with the Commissioner, progress and performance in executing approved projects and, if necessary, recommend the suspension or termination of funding for projects based on factors such as failure to meet the terms of a written agreement described in subsection (a)(6).

(G) Monitor operating costs of the Fund.

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

(4) CHAIR.—The Chair of the Board shall be the Administrator of the Office of Electronic Government.

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

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

(B) A senior official from the General Services Administration having technical expertise 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).

(B) Assist the Board with the evaluation, prioritization, and development of agency modernization proposals.

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

(D) Provide the Director with information necessary to meet the requirements of subsection (a)(7).

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

SEC. 5. DEFINITIONS.

In this Act:

(1) CLOUD COMPUTING.—The term "cloud computing" has the meaning given that term by the National Institute of Standards and Technology in NIST Special Publication 800–145 and any amendatory or superseding document thereto.

(2) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Technology Transformation Service of the General Services Administration.

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.