

MODERNIZING GOVERNMENT TECHNOLOGY REFORM ACT

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FEBRUARY 23, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. COMER, from the Committee on Oversight and Accountability, submitted the following

R E P O R T

[To accompany H.R. 5527]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Accountability, to whom was referred the bill (H.R. 5527) to amend section 1078 of the National Defense Authorization Act for Fiscal Year 2018 to increase the effectiveness of the Technology Modernization Fund, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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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 “Modernizing Government Technology Reform Act”.

**SEC. 2. REALIGNING USE OF FUNDS WITH ORIGINAL CONGRESSIONAL INTENT.**

Section 1078 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 40 U.S.C. 11301 note) is amended—

(1) in subsection (b)—

(A) by amending paragraph (3) to read as follows:

“(3) USE OF FUNDS.—

“(A) IN GENERAL.—The Administrator shall, in accordance with recommendations from the Board, use amounts in the Fund for the following:

“(i) To transfer such amounts, to remain available until expended, to the head of an agency for the acquisition, procurement, and operation of information technology, or the development of information technology when more efficient and cost effective, to—

“(I) modernize, retire, or replace legacy information technology systems used by the agency;

“(II) enhance cybersecurity and privacy at the agency;

“(III) improve long-term efficiency and effectiveness of agency information technology; or

“(IV) improve the ability of the agency to perform the mission of the agency and deliver services to the public.

“(ii) To provide services or work performed in support of—

“(I) the activities described in clause (i); and

“(II) the Board and the Director in carrying out the responsibilities described in subsection (c)(2).

“(iii) To fund only programs, projects, or activities, or to fund increases for any programs, projects, or activities that have not been denied or restricted by Congress.

“(iv) To transfer such amounts only for programs, projects, or activities that will be reimbursed to the Fund to the extent necessary to ensure total amounts in the Fund are no less than the amounts needed to keep the Fund operational until the Fund sunsets pursuant to subsection (g)(1).

“(B) TERMINATION OR SUSPENSION OF FUNDS.—The Administrator shall, in accordance with recommendations from the Board, suspend or terminate funding for any project with respect to which the head of an agency provided fraudulent or misleading statements about such project (including fraudulent statements about technical design, the business case, or program management with respect to the project) in the application or proposal for amounts from the Fund for such project.”;

(B) in paragraph (4)(A), by striking “\$250,000,000” and inserting “\$50,000,000” and by striking “fiscal years 2018 and 2019” and inserting “fiscal years 2024 through 2030”;

(C) in paragraph (5)—

(i) in subparagraph (A)—

(I) in clause (i)—

(aa) by striking “or (B)”; and

(bb) by striking “(3)(C)” and inserting “(3)(A)(ii)”; and

(II) in clause (ii), by striking “, consistent with any applicable reprogramming law or guidelines of the Committees on Appropriations of the Senate and the House of Representatives”; and

(ii) in subparagraph (B)(i)—

(I) by striking “paragraph (3)(C)” and inserting “paragraph (3)(A)(ii)”; and

(II) by striking “the solvency of the Fund, including operating expenses” and inserting the following: “total amounts in the Fund are no less than the amounts needed to keep the Fund operational until the Fund sunsets pursuant to subsection (g)(1)”;

(D) in paragraph (6)—

(i) in subparagraph (A)—

(I) in the matter before clause (i), by striking “subparagraphs (A) and (B) of paragraph (3)” and inserting the following: “paragraph (3)(A)(i) and before any services or work are provided under paragraph (3)(A)(ii)(I)”;

(II) in clause (i)—

(aa) by striking “unless approved by the Director”; and

- (bb) by striking “; and” and inserting a semicolon;
- (III) by redesignating clause (ii) as clause (iv); and
- (IV) by inserting after clause (i) the following new clauses:
  - “(ii) which shall include terms of repayment that require the head of the agency to reimburse the Fund for funds transferred under paragraph (3)(A)(i) at a level that ensures total amounts in the Fund are no less than the amounts needed to keep the Fund operational until the Fund sunsets pursuant to subsection (g)(1);
  - “(iii) which shall include terms of repayment that require the head of the agency to fully reimburse the Fund for any services or work provided under paragraph (3)(A)(ii) in direct support of the project; and”;
- and
- (ii) in subparagraph (B)—
  - (I) by striking clause (i) and inserting the following:
    - “(i) for any funds transferred to an agency under paragraph (3)(A)(i), in the absence of compelling circumstances documented by the Administrator at the time of transfer, that such funds shall be transferred only—
      - “(I) on an incremental basis, tied to metric-based development milestones achieved by the agency through the use of rapid, iterative, development processes; and
      - “(II) after the head of the agency has provided the Director any information the Director is required to report pursuant to paragraph (7)(A)(i); and”;
  - (II) in clause (ii)—
    - (aa) by striking “subparagraphs (A) and (B) of paragraph (3)” and inserting “paragraph (3)(A)(i)”;
    - (bb) by striking “paragraph (6)” and inserting “this paragraph”;
- (E) in paragraph (7)—
  - (i) in subparagraph (A)(i)—
    - (I) by inserting “the written agreement entered into under paragraph (6),” after “description of the project,”; and
    - (II) by inserting “(including documented market research into commercial products and services)” after “used”;
  - (ii) in subparagraph (B)—
    - (I) in clause (i)—
      - (aa) by striking “establishing”; and
      - (bb) by striking “the cost savings associated with the projects funded both annually and over the life of the acquired products and services by the Fund;” and inserting the following: “the amount repaid to the Fund in accordance with the terms established in the written agreements described in paragraph (6);”;
    - (II) in clause (ii)—
      - (aa) by striking “reliability of the cost savings” and inserting “total cost savings”; and
      - (bb) by striking the semicolon and inserting “; and”; and
    - (III) in clause (iii), by striking “; and” and inserting a period; and
    - (IV) by striking clause (iv);
- (2) in subsection (c)(2)—
  - (A) in subparagraph (A)—
    - (i) in clause (ii), by striking “the greatest Governmentwide impact; and” and inserting the following: “the greatest impact on modernizing, retiring, or replacing Federal legacy information technology systems; and”;
    - (ii) by redesignating clauses (i) through (iii) as clauses (ii) through (iv), respectively; and
    - (iii) by inserting before clause (ii), as so redesignated, the following new clause:
      - “(i) the ability for the head of the agency to ensure repayment of funds transferred from the Fund to the head of the agency, in accordance with subsection (b);”;
  - (B) in subparagraph (D), by striking “to improve or replace multiple information technology systems” and inserting the following: “to modernize, retire, or replace legacy information technology systems under subsection (b)(3)(A)(i)”;
  - (C) in subparagraph (F), by inserting after “subsection (b)(6)” the following: “or the identification of fraudulent or misleading statements about the project (including fraudulent statements about technical design, the

business case, or program management with respect to the project) in the application or proposal for amounts from the Fund for the project”; and

(D) in subparagraph (G), by inserting after “operating costs of the Fund” the following: “to ensure total amounts in the Fund are no less than the amounts needed to keep the Fund operational until the Fund sunsets pursuant to subsection (g)(1)”;

(3) in subsection (c)—

(A) in paragraph (5)—

(i) in subparagraph (B) by striking the period at the end and inserting “; and”; and

(ii) by inserting after subparagraph (B) the following:

“(C) a senior official from the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security, appointed by the Director of the Cybersecurity and Infrastructure Security Agency, with the approval of the Director of the Office of Management and Budget.”;

(B) in paragraph (6)(A)—

(i) by striking “shall be—” and inserting “shall be 4 employees of the Federal Government primarily having technical expertise in information technology development, financial management, cybersecurity and privacy, and acquisition, appointed by the Director.”; and

(ii) by striking clauses (i) and (ii); and

(4) in subsection (d)(2)—

(A) in subparagraph (A), by striking “subsection (b)(3)(A) and for products, services, and acquisition vehicles funded under subsection (b)(3)(B)” and inserting “subsection (b)(3)”; and

(B) in subparagraph (C), by inserting after “and reduce waste” the following: “and ensure total amounts in the Fund are no less than the amounts needed to keep the Fund operational until the Fund sunsets pursuant to subsection (g)(1)”;

(5) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively;

(6) by inserting after subsection (d) the following new subsection:

“(e) RESPONSIBILITIES OF THE FEDERAL CHIEF INFORMATION OFFICER; AGENCY CHIEF INFORMATION OFFICERS.—

“(1) AGENCY INVENTORY.—An agency Chief Information Officer, in coordination with stakeholders and other agency officials, shall provide to the Federal Chief Information Officer—

“(A) on or before the first September 30 that occurs after the date of the enactment of the Modernizing Government Technology Reform Act of 2023, a list of high-risk legacy information technology systems used, operated, or maintained by the agency, in accordance with the guidance issued under paragraph (4); and

“(B) on or before September 30 of each year after the first year in which the list is provided under subparagraph (A), any updates to such list.

“(2) LEGACY FEDERAL IT INVENTORY.—The Federal Chief Information Officer shall—

“(A) on or before the first December 30 that occurs after the date of the enactment of the Modernizing Government Technology Reform Act of 2023, compile a Legacy Federal IT Inventory on the basis of the each list provided by an agency Chief Information Officers under paragraph (1)(A) that includes information about each high-risk legacy information technology system used, operated, or maintained by an agency; and

“(B) on or before December 30 each year after the year in which the Legacy Federal IT Inventory is compiled, update such Inventory on the basis of each update to the list provided by an agency Chief Information Officer under paragraph (1)(B).

“(3) PRIORITIZATION LIST.—

“(A) REQUIREMENT.—The Federal Chief Information Officer shall—

“(i) not later than 90 days after the date on which the Federal Chief Information Officer receives the list required by paragraph (1)(A) from each agency Chief Information Officer, compile, on the basis of each such list, a list of 10 legacy information technology systems that present the greatest security, privacy, and operational risks to the Federal Government; and

“(ii) not later than 90 days after the date on which the Federal Chief Information Officer receives updates under paragraph (1)(B) from each agency Chief Information Officer, update the list required by subparagraph (A) on the basis of each updates to the list provided by agency Chief information Officers under paragraph (1)(B).

“(B) REPORT TO CONGRESS.—Not later than 14 days after the date on which the Federal Chief Information Officer compiles the list required by subparagraph (A), or updates such list, the Director shall submit to the Committee on Oversight and Accountability of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Comptroller General of the United States, a report (which may include a classified annex) containing—

“(i) such list (including any update made to such list under subparagraph (A)(ii)); and

“(ii) each list provided by an agency Chief Information Officer under paragraph (1)(A) (including any update made to any such list under paragraph (1)(B)).

“(4) GUIDANCE.—

“(A) IN GENERAL.—Not later than 180 days after enactment of this Act, the Director shall issue guidance on implementing the requirements of this subsection that shall, at a minimum—

“(i) prescribe an appropriate format for list to be provided under paragraph (1)(A);

“(ii) prescribe the information to be included in the Legacy Federal IT Inventory required by paragraph (2);

“(iii) provide guidance on how an agency Chief Information Officer should identify high-risk legacy information technology systems that, at least, requires agency Chief Information Officers, in coordination with other agency stakeholders, to identify as a high risk legacy information technology system any outdated or obsolete system of information technology that is critical to the agency such that the loss or degradation of the system would create a security, operational, or privacy risk to the agency or would otherwise impact the ability of the agency to perform the mission of the agency, effectively deliver programs, or conduct business; and

“(iv) provide guidance on how existing reporting structures can be used to submit the Legacy Federal IT inventory required by paragraph (2).

“(B) UPDATES.—The Director may update the guidance issued under subparagraph (A) as the Director determines necessary.

“(5) DEFINITIONS.—In this subsection:

“(A) AGENCY CHIEF INFORMATION OFFICER.—The term ‘agency Chief Information Officer’ means a Chief Information Officer designated under section 3506(a)(2) of title 44, United States Code.

“(B) FEDERAL CHIEF INFORMATION OFFICER.—The term ‘Federal Chief Information Officer’ means the Administrator of the Office of Electronic Government.”; and

(7) in subsection (g)(1), as so redesignated, by striking “On and after the date that is 2 years after the date on which the Comptroller General of the United States issues the third report required under subsection (b)(7)(B),” and inserting “After December 31, 2030.”.

## SUMMARY AND PURPOSE OF LEGISLATION

H.R. 5527 reforms and reauthorizes the Technology Modernization Fund (TMF) and its governing board, the Technology Modernization Board (TMB), which were established by the bipartisan Modernizing Government Technology Act of 2017 (P.L. 115–91). The Modernizing Government Technology Reform Act includes several measures to improve the administration of the TMF and ensure program operations adhere to original congressional intent. The bill requires TMF awards to be reimbursed at the level needed to ensure the Fund remains operational into future years and creates a new requirement that agencies reimburse administrative fees. The bill also establishes a Federal Legacy IT Inventory, a new oversight tool that will enable Congress to evaluate agency and government-wide priority items for legacy IT modernization and to assess how well the TMF is being focused by the Administration to fund projects addressing such legacy IT priorities. Finally, this

bill reauthorizes the TMF and TMB and establishes a December 2030 sunset.

#### BACKGROUND AND NEED FOR LEGISLATION

The Technology Modernization Fund (TMF) and its governing board, the Technology Modernization Board, were established by the bipartisan Modernizing Government Technology Act of 2017, which passed into law as section 1078 of the Fiscal Year 2018 National Defense Authorization Act (NDAA) (P.L. 115–91; 40 U.S.C. 11301 note, “Establishment of Technology Modernization Fund and Board”).

The TMF is appropriated funds by Congress which it is authorized under the law to then transfer to the head of an agency to improve, retire, or replace existing Federal information technology (IT) systems, enhance cybersecurity and privacy, and improve long term efficiency and effectiveness. Agencies can apply for these fund transfers (awards) by submitting a project proposal to the Technology Modernization Board.

The Technology Modernization Board, chaired by the Administrator of the Office of Electronic Government (Federal CIO), reviews project proposals and recommends projects to fund. Before transferring funds for awarded projects, GSA and the awarded agency enter into a written agreement that governs the project and terms of repayment.

The TMF is intended to address the long-standing problem of funding legacy IT modernization projects that span multiple years. That is, the annual appropriations cycle makes it difficult for agencies to plan and implement upgrades to legacy IT systems, which can take several years to accomplish. In the short term, the replacement process requires running existing systems while building new ones—incurring additional costs before savings can be achieved. The TMF allows agencies to borrow against future savings to better plan and fund legacy IT system upgrades. In this regard, the TMF is a success.

However, several reforms are needed to ensure the TMF and the Technology Modernization Board operate effectively into the future and in accordance with Congressional intent. For example, while the TMF was intended to be a revolving fund, agencies have been increasingly allowed to make partial (25%, 50% or 75%) or minimal (less than 25%) repayments. This forces the Fund to rely on ongoing appropriations beyond those authorized by the 2017 law and risks the long-term solvency of the Fund—which was not the original intention of Congress in creating the Fund.

While the determination by OMB and GSA to allow partial and minimal payments deviates from congressional intent, the U.S. Government Accountability Office (GAO) has determined that it is allowed under existing law. A decision issued by GAO on July 14, 2022, concluded that while GSA and OMB cannot entirely waive agency reimbursements, they have “the discretion to set reimbursement terms and amounts to be paid subject to other statutory re-

quirements, which may include allowing less than full reimbursement.”<sup>1</sup>

H.R. 5527 reforms existing law by requiring TMF awards to be reimbursed at the level needed to ensure the Fund is operational until it sunsets in December 2030, as reauthorized by H.R. 5527. While this would not mandate that OMB and GSA require full reimbursement for each award, it does require the TMF to increase reimbursement rates across all awards to ensure the fund remains operational. Since the bill intends to make the Fund less reliant on annual appropriations, the bill establishes a lower, annual authorization of appropriations through 2030 at \$50,000,000 a year—as compared to the original authorization of appropriations of \$250,000,000 for both Fiscal Year 2018 and Fiscal year 2019 (P.L. 115–91, Sec. 1078(b)(4)(A)). This \$50,000,000 matches the Fiscal Year 2023 enacted amount of \$50,000,000 for the fund (P.L. 117–328, Sec. 2, Division E, Title V), thus keeping the authorization amount flat respective to the most recent appropriations.

H.R. 5527 further reforms the TMF by requiring agencies fully repay administrative costs associated with a project. This reform will ensure the TMF program office is fiscally sustainable and appropriated funds contribute to project awards rather than administrative operations. This reform is necessary because as of August 2021,<sup>2</sup> the TMF had obligated \$2.8 million to cover operating expenses but had only collected \$808,889 in administrative fees from agencies.<sup>3</sup> Administrative fees are currently collected for the TMF by calculating a percentage of the agency’s award.<sup>4</sup> This has resulted in a mere 29 percent recovery rate of obligated operating costs.<sup>5</sup>

Furthermore, the TMF’s largest award to date—\$187 million—was provided to GSA for the Login.gov project to “further scale the Login.gov shared service with more advanced cybersecurity capabilities, expand identity verification coverage, and expand integrations with agency public-facing digital services.”<sup>6</sup> According to a GSA Office of Inspector General (OIG) report released on March 7, 2023, GSA made inaccurate statements about Login.gov’s performance to obtain TMF funds.<sup>7</sup> This GSA OIG report found that GSA’s September 2021 project proposal submitted to the Technology Modernization Board claimed that Login.gov adhered to NIST’s 800–63–3 IAL2 identity verification standard.<sup>8</sup> This claim was untrue.<sup>9</sup>

H.R. 5527 protects the TMF from future fraudulent applications by requiring the GSA Administrator to suspend or terminate

<sup>1</sup> Government Accountability Office, *Office of Management and Budget/General Services Administration Reimbursement Requirement for the Technology Modernization Fund* (July 14, 2022).

<sup>2</sup> The Modernizing Government Technology Act of 2017 requires GAO to report biannually on the TMF and projects that have received awards. The most recent GAO report was released in December 2021, limiting most available financial data on TMF awards and repayment to August 2021.

<sup>3</sup> Government Accountability Office, *Technology Modernization Fund Implementation of Recommendations Can Improve Fee Collection and Proposal Cost Estimates* (December 2021) (GAO–22–105117).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> General Services Administration, Office of Inspector Gen., *GSA Misled Customers on Login.gov’s Compliance with Digital Identity Standards*, at 3 (JE23–003) (March 7, 2023).

<sup>8</sup> General Services Administration, Office of Inspector Gen., *GSA Misled Customers on Login.gov’s Compliance with Digital Identity Standards*, at 3 (JE23–003) (March 7, 2023).

<sup>9</sup> *Id.*

project funding if the Technology Modernization Board finds that fraudulent or misleading statements were provided by an agency about a project for the purpose of obtaining funds.

H.R. 5527 also establishes a Federal Legacy IT Inventory, a new oversight tool to ensure that the Federal government is addressing the problem of legacy IT systems. This new requirement ensures that agencies compile and submit a list of high-risk legacy IT systems used, operated, or maintained by the agency to the Federal CIO. The Federal CIO must then create and submit to congress a prioritization list of 10 legacy IT systems that present the greatest security, privacy, and operational risks to the Federal government. This inventory allows Congress to conduct oversight of the Federal government's modernization of legacy IT systems and to assess how well the TMF is funding projects that address components of OMB's priority legacy IT list.

#### SECTION-BY-SECTION ANALYSIS

##### *Sec. 1. Short title*

- The short title is the “Modernizing Government Technology Reform Act of 2023”.

##### *Section 2. Realigning use of funds with original congressional intent*

- Subparagraph (1)(A) strikes and replaces paragraph (b)(3) of Section 1078 of the FY 2018 National Defense Authorization Act (NDAA) (P.L. 115–91) (40 U.S.C. 11301 note, “Establishment of Technology Modernization Fund and Board”) to modify the Technology Modernization Fund’s (TMF) authorized use of funds to better adhere to the original congressional intent:
  - Retains authorization for the TMF to transfer funds to the head of an agency to modernize, retire, or replace legacy IT, enhance cybersecurity, improve long-term efficiency and effectiveness of agency technology, and improve agency mission delivery.
  - Adds a new requirement for the TMF to only transfer funds to projects that will reimburse the Fund to the extent necessary to keep the Fund operational until it sunsets in December 2030 (as reauthorized by this bill).
  - Adds a new requirement for the Administrator of the General Services Administration (GSA) to terminate or suspend funding, upon recommendation from the Technology Modernization Board (TMB), for any project that included fraudulent or misleading information in its project proposal.
- Subparagraph (1)(B) strikes the previous authorization of appropriations of \$250,000,000 for FY 2018 and FY 2019 and reauthorizes appropriations at the lower amount of \$50,000,000 for FY 2024 through 2030 (e.g., FY 2023 enacted).
- Subparagraph (1)(C) ensures agencies are able and required to reimburse the Fund.
- Subparagraph (1)(D) modifies the written agreement governing terms of repayment between the head of the agency to—

- Require agencies to reimburse the Fund for administrative support.
- Require the terms of repayment for the award to be set at a level needed to keep the Fund operational until it sunsets.
- Require agencies provide documents on project status and use of commercial products and services before receiving funds.
- Subparagraph (1)(E) increases the transparency of Fund awards and modernizes outdated reporting requirements by—
  - Creating a new requirement that the Fund publish project written agreements.
  - Requiring agencies document their market research into commercial products and services for each project.
  - Modernizing the requirements for GAO’s biannual review.
- Subparagraph (2)(A) adds new requirements to the TMB’s project evaluation criteria, including prioritizing an agency’s ability to repay the Fund and focusing on the projects impact Federal legacy IT.
- Subparagraph (2)(C) adds new requirements for the TMB to recommend the suspension or termination of Funds to GSA if the project proposal included fraudulent or misleading statements.
- Subparagraph (2)(D) adds new requirements for the TMB to monitor the operating costs of the Fund to ensure total amounts are no less than those needed to keep the Fund operational (or solvent) until it sunsets.
- Subparagraph (3)(A) makes a senior official from the Cybersecurity and Infrastructure Security Agency (CISA) a permanent member of the TMB.
- Subparagraph (4)(B) requires GSA to ensure that total amounts in the Fund are no less than those needed to keep the Fund operational until it sunsets.
- Paragraph (6) inserts a new subsection into Section 1078 of the FY 2018 National Defense Authorization Act (NDAA) (P.L. 115–91) (40 U.S.C. 11301 note, “Establishment of Technology Modernization Fund and Board”) titled “(e) Responsibilities of the Federal Chief Information Officer; Agency Chief Information Officers.”
  - Requires agency Chief Information Officers (CIO) to annually submit a list of high-risk legacy IT systems used, operated, or maintained by the agency at the end of the fiscal year (September 30th).
  - Requires the Federal CIO, within 90 days of receiving the agency lists, to compile all agency inventories and create a prioritization list of 10 legacy IT systems that present the greatest security, privacy, and operational risks to the Federal government and submit the lists to Congress within 14 days.
  - Requires the Director of the Office of Management and Budget (OMB) to issue guidance on implementing this new subsection.
  - Provides for definitions for “agency Chief Information Officer” (44 U.S.C. 3506(a)(2)) and for “Federal Chief Infor-

mation Officer” (Administrator of the Office of Electronic Government).

- Paragraph (7) reauthorizes the TMF through December 31, 2030.

#### LEGISLATIVE HISTORY

H.R. 5527 was introduced on September 18, 2023, by Representative Nancy Mace. The bill was referred to the Committee on Oversight and Accountability. Representative Gerry Connolly (D–VA) and Representative Ro Khanna (D–CA) are cosponsors of the bill. The Committee on Oversight and Accountability held a hearing related to and used for development and consideration of the bill on May 10, 2023. The Committee considered H.R. 5527 at a business meeting on September 20, 2023, and ordered the bill as amended favorably reported by a recorded vote.

#### COMMITTEE CONSIDERATION

On September 20, 2023, the Committee met in open session and ordered the bill, H.R. 5527, favorably reported with an amendment in the nature of a substitute, by a roll call vote of 43–0, a quorum being present.

#### ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following roll call votes occurred during the Committee’s consideration of H.R. 5527:

The first and only roll call vote was on final passage of H.R. 5527. The bill was agreed to in a recorded vote of 43–0.

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY  
 118TH CONGRESS  
 RATIO 26-21  
 ROLL CALL

Vote on: Final Passage of H.R. 5527  
 Date: 9/20/2023

VOTE #: 5

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. COMER (KY) <i>(Chairman)</i>	X			MR. RASKIN (MD) <i>(Flanking Member)</i>	X		
MR. JORDAN (OH)				MS. NORTON (DC)	X		
MR. TURNER (OH)				MR. LYNCH (MA)	X		
MR. GOSAR (AZ)	X			MR. CONNOLLY (VA)	X		
MS. FOXX (NC)	X			MR. KRISHNAMOORTHY (IL)	X		
MR. GROTHMAN (WI)	X			MR. KHANNA (CA)	X		
MR. PALMER (AL)	X			MR. MFUME (MD)	X		
MR. HIGGINS (LA)	X			MS. OCASIO-CORTEZ (NY)	X		
MR. SESSIONS (TX)	X			MS. PORTER (CA)	X		
MR. BIGGS (AZ)	X			MS. BUSH (MO)	X		
MS. MACE (SC)	X			MR. GOMEZ (CA)	X		
MR. LATURNER (KS)	X			MS. BROWN (OH)	X		
MR. FALLON (TX)	X			MS. STANSBURY (NM)	X		
MR. DONALDS (FL)	X			MR. GARCIA (CA)	X		
MR. ARMSTRONG (ND)	X			MR. FROST (FL)	X		
MR. PERRY (PA)	X			MS. LEE of PENNSYLVANIA (PA)	X		
MR. TIMMONS (SC)	X			MR. CASAR (TX)	X		
MR. BURCHETT (TN)	X			MS. CROCKETT (TX)	X		
MS. GREENE OF GEORGIA (GA)	X			MR. GOLDMAN (NY)	X		
MRS. MCCLAIN (MI)	X			MR. MOSKOWITZ (FL)	X		
MRS. BOEBERT (CO)	X			VACANCY			
MR. FRY (SC)	X						
MRS. LUNA (FL)							
MR. EDWARDS (NC)	X						
MR. LANGWORTHY (NY)	X						
MR. BURLISON (MO)	X						

Roll Call Totals: Ayes: 43 Nays: 0 Present:  
 Passed:   X   Failed:

## EXPLANATION OF AMENDMENTS

During Committee consideration of the bill, Representative James Comer (R–KY), Chairman of the Committee, offered an amendment in the nature of a substitute that made certain technical changes to the bill. The amendment in the nature of a substitute passed by voice vote.

## LIST OF RELATED COMMITTEE HEARINGS

In accordance with House rule XIII, clause 3(c)(6)(A), (1) the following Committee hearing was used to develop or consider H.R. 5527:

On May 10, 2023, the Subcommittee on Cybersecurity, Information Technology, and Government Innovation of the Committee on Oversight and Accountability held a hearing titled “Risky Business: Costly Inaction on Federal Legacy IT” with Mr. Kevin Walsh, Director, Information Technology and Cybersecurity, U.S. Government Accountability Office; Ms. Suzette Kent, Chief Executive Officer, Kent Advisory Services; and Mr. David Powner, Executive Director, Center for Data-Driven Policy.

(2) The following hearing related to H.R. 5527 was held:

On May 10, 2023, the Subcommittee on Cybersecurity, Information Technology, and Government Innovation of the Committee on Oversight and Accountability held a hearing titled “Risky Business: Costly Inaction on Federal Legacy IT” with Mr. Kevin Walsh, Director, Information Technology and Cybersecurity, U.S. Government Accountability Office; Ms. Suzette Kent, Chief Executive Officer, Kent Advisory Services; and Mr. David Powner, Executive Director, Center for Data-Driven Policy.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the Background and Need for Legislation section above.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goals or objectives of this bill are to increase the effectiveness of the Technology Modernization Fund, and for other purposes.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill does not relate to employment or access to public services and accommodations in the legislative branch.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 3(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

This bill does not direct the completion of any specific rule makings within the meaning of section 551 of title 5, U.S.C.

FEDERAL ADVISORY COMMITTEE ACT STATEMENT

The Committee finds that this legislation does not direct the establishment of advisory committees within the definition of Section 5(b) of the appendix to title 5, U.S.C.

UNFUNDED MANDATES REFORM ACT STATEMENT

Pursuant to section 423 of the *Congressional Budget Act of 1974* the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act of 1974*.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the *Congressional Budget Act of 1974* is as follows:

<b>H.R. 5527, Modernizing Government Technology Reform Act</b>			
As ordered reported by the House Committee on Oversight and Accountability on September 20, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	12	175	350
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? No	
	<b>Mandate Effects</b>		
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate? No	
	Contains private-sector mandate? No		

H.R. 5527 would amend the Technology Modernization Fund (TMF) as authorized in the National Defense Authorization Act for Fiscal Year 2018 and would authorize the appropriation of \$50 million annually through 2030 for the fund. H.R. 5527 also would create new reporting requirements for federal agencies regarding their information technology (IT) systems.

The TMF is a working capital fund designed to retire and replace older IT systems. In 2023, \$50 million was appropriated to the fund for those purposes. Under current law, agencies that use funds from the TMF to modernize their IT systems must repay the fund. Any repayments would be subject to the availability of future appropriations and once made would be available through the TMF to fund IT system upgrades for other agencies. Under H.R. 5527 agencies would need to submit more detail in their plans about their ability to repay the TMF before they could receive awards from the fund.

Using historical spending patterns for the program and assuming appropriation of the specified amounts, CBO estimates that implementing H.R. 5527 would cost \$175 million over the 2024–2028 period, and \$175 million after 2028.

The costs of the legislation, detailed in Table 1, fall within all budget functions that contain federal IT systems.

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 5527

	By fiscal year, millions of dollars—													
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2024–2028	2024–2033		
Authorization .....	50	50	50	50	50	50	50	0	0	0	250	350		
Estimated Outlays .....	12	25	38	50	50	50	50	38	25	12	175	350		

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,  
*Director, Congressional Budget Office.*

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Using historical spending patterns for the program and assuming appropriation of the specified amounts, CBO estimates that implementing H.R. 5527 would cost \$175 million over the 2024–2028 period, and \$175 million after 2028.

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 italics, and existing law in which no change is proposed is shown in roman):

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 italics, and existing law in which no change is proposed is shown in roman):

**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL  
YEAR 2018**

\* \* \* \* \*

**DIVISION A—DEPARTMENT OF  
DEFENSE AUTHORIZATIONS**

\* \* \* \* \*

**TITLE X—GENERAL PROVISIONS**

\* \* \* \* \*

## Subtitle G—Modernizing Government Technology

\* \* \* \* \*

### SEC. 1078. ESTABLISHMENT OF TECHNOLOGY MODERNIZATION FUND AND BOARD.

(a) **DEFINITION.**—In this section, the term “agency” has the meaning given the term in section 551 of title 5, United States Code.

(b) **TECHNOLOGY MODERNIZATION FUND.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury a Technology Modernization Fund for technology-related activities, to improve information technology, to enhance cybersecurity across the Federal Government, and to be administered in accordance with guidance issued by the Director.

(2) **ADMINISTRATION OF FUND.**—The Administrator, in consultation with the Chief Information Officers Council and with the approval of the Director, shall administer the Fund in accordance with this subsection.

[(3) **USE OF FUNDS.**—The Administrator shall, in accordance with recommendations from the Board, use amounts in the Fund—

[(A) to transfer such amounts, to remain available until expended, to the head of an agency for the acquisition of products and services, or the development of such products and services when more efficient and cost effective, to improve, retire, or replace existing Federal information technology systems to enhance cybersecurity and privacy and improve long-term efficiency and effectiveness;

[(B) to transfer such amounts, to remain available until expended, to the head of an agency for the operation and procurement of information technology products and services, or the development of such products and services when more efficient and cost effective, and acquisition vehicles for use by agencies to improve Governmentwide efficiency and cybersecurity in accordance with the requirements of the agencies;

[(C) to provide services or work performed in support of—

[(i) the activities described in subparagraph (A) or (B); and

[(ii) the Board and the Director in carrying out the responsibilities described in subsection (c)(2); and

[(D) to fund only programs, projects, or activities or to fund increases for any programs, projects, or activities that have not been denied or restricted by Congress.]

(3) **USE OF FUNDS.**—

(A) **IN GENERAL.**—*The Administrator shall, in accordance with recommendations from the Board, use amounts in the Fund for the following:*

*(i) To transfer such amounts, to remain available until expended, to the head of an agency for the acquisition, procurement, and operation of information tech-*

nology, or the development of information technology when more efficient and cost effective, to—

(I) modernize, retire, or replace legacy information technology systems used by the agency;

(II) enhance cybersecurity and privacy at the agency;

(III) improve long-term efficiency and effectiveness of agency information technology; or

(IV) improve the ability of the agency to perform the mission of the agency and deliver services to the public.

(ii) To provide services or work performed in support of—

(I) the activities described in clause (i); and

(II) the Board and the Director in carrying out the responsibilities described in subsection (c)(2).

(iii) To fund only programs, projects, or activities, or to fund increases for any programs, projects, or activities that have not been denied or restricted by Congress.

(iv) To transfer such amounts only for programs, projects, or activities that will be reimbursed to the Fund to the extent necessary to ensure total amounts in the Fund are no less than the amounts needed to keep the Fund operational until the Fund sunsets pursuant to subsection (g)(1).

(B) TERMINATION OR SUSPENSION OF FUNDS.—The Administrator shall, in accordance with recommendations from the Board, suspend or terminate funding for any project with respect to which the head of an agency provided fraudulent or misleading statements about such project (including fraudulent statements about technical design, the business case, or program management with respect to the project) in the application or proposal for amounts from the Fund for such project.

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

(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund **[\$250,000,000]** \$50,000,000 for each of **[fiscal years 2018 and 2019]** fiscal years 2024 through 2030.

(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 for the purposes described in paragraph (3).

(C) AVAILABILITY OF FUNDS.—Amounts deposited, credited, or otherwise made available to the Fund shall be available until expended for the purposes described in paragraph (3).

(5) REIMBURSEMENT.—

(A) REIMBURSEMENT BY AGENCY.—

(i) IN GENERAL.—The head of an agency shall reimburse the Fund for any transfer made under subparagraph (A) **[or (B)]** of paragraph (3), including any

services or work performed in support of the transfer under paragraph **[(3)(C)] (3)(A)(ii)**, in accordance with the terms established in a written agreement described in paragraph (6).

(ii) REIMBURSEMENT FROM SUBSEQUENT APPROPRIATIONS.—Notwithstanding any other provision of law, an agency may make a reimbursement required under clause (i) from any appropriation made available after the date of enactment of this Act for information technology activities**],** consistent with any applicable reprogramming law or guidelines of the Committees on Appropriations of the Senate and the House of Representatives**].**

(iii) RECORDING OF OBLIGATION.—Notwithstanding section 1501 of title 31, United States Code, an obligation to make a payment under a written agreement described in paragraph (6) in a fiscal year after the date of enactment of this Act shall be recorded in the fiscal year in which the payment is due.

**(B) PRICES FIXED BY ADMINISTRATOR.—**

(i) IN GENERAL.—The Administrator, in consultation with the Director, shall establish amounts to be paid by an agency under this paragraph and the terms of repayment for activities funded under paragraph (3), including any services or work performed in support of that development under **[paragraph (3)(C)] paragraph (3)(A)(ii)**, at levels sufficient to ensure **[the solvency of the Fund, including operating expenses]** *total amounts in the Fund are no less than the amounts needed to keep the Fund operational until the Fund sunsets pursuant to subsection (g)(1).*

(ii) REVIEW AND APPROVAL.—Before making any changes to the established amounts and terms of repayment, the Administrator shall conduct a review and obtain approval from the Director.

**(C) FAILURE TO MAKE TIMELY REIMBURSEMENT.—**The Administrator may obtain reimbursement from an agency under this paragraph by the issuance of transfer and counterwarrants, or other lawful transfer documents, supported by itemized bills, if payment is not made by the agency during the 90-day period beginning after the expiration of a repayment period described in a written agreement described in paragraph (6).

**(6) WRITTEN AGREEMENT.—**

**(A) IN GENERAL.—**Before the transfer of funds to an agency under **[subparagraphs (A) and (B) of paragraph (3)] paragraph (3)(A)(i) and before any services or work are provided under paragraph (3)(A)(ii)(I)**, the Administrator, in consultation with the Director, and the head of the agency shall enter into a written agreement—

(i) documenting the purpose for which the funds will be used and the terms of repayment, which may not exceed 5 years **[unless approved by the Director; and];**

(ii) *which shall include terms of repayment that require the head of the agency to reimburse the Fund for*

*funds transferred under paragraph (3)(A)(i) at a level that ensures total amounts in the Fund are no less than the amounts needed to keep the Fund operational until the Fund sunsets pursuant to subsection (g)(1);*

*(iii) which shall include terms of repayment that require the head of the agency to fully reimburse the Fund for any services or work provided under paragraph (3)(A)(ii) in direct support of the project; and*

**[(ii)]** *(iv) which shall be recorded as an obligation as provided in paragraph (5)(A).*

(B) REQUIREMENT FOR USE OF INCREMENTAL FUNDING, COMMERCIAL PRODUCTS AND SERVICES, AND RAPID, ITERATIVE DEVELOPMENT PRACTICES.—The Administrator shall ensure—

**[(i) for any funds transferred to an agency under paragraph (3)(A), in the absence of compelling circumstances documented by the Administrator at the time of transfer, that such funds shall be transferred only on an incremental basis, tied to metric-based development milestones achieved by the agency through the use of rapid, iterative, development processes; and]**

*(i) for any funds transferred to an agency under paragraph (3)(A)(i), in the absence of compelling circumstances documented by the Administrator at the time of transfer, that such funds shall be transferred only—*

*(I) on an incremental basis, tied to metric-based development milestones achieved by the agency through the use of rapid, iterative, development processes; and*

*(II) after the head of the agency has provided the Director any information the Director is required to report pursuant to paragraph (7)(A)(i); and*

**(ii)** that the use of commercial products and services are incorporated to the greatest extent practicable in activities funded under **[subparagraphs (A) and (B) of paragraph (3)]** *paragraph (3)(A)(i)*, and that the written agreement required under **[paragraph (6)]** *this paragraph* documents this preference.

(7) REPORTING REQUIREMENTS.—

(A) LIST OF PROJECTS.—

(i) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director shall maintain a list of each project funded by the Fund, to be updated not less than quarterly, that includes a description of the project, *the written agreement entered into under paragraph (6)*, project status (including any schedule delay and cost overruns), financial expenditure data related to the project, and the extent to which the project is using commercial products and services, including if applicable, a justification of why commercial products and services were not used (*including documented market research into commercial*

*products and services*) and the associated development and integration costs of custom development.

(ii) PUBLIC AVAILABILITY.—The list required under clause (i) shall be published on a public website in a manner that is, to the greatest extent possible, consistent with applicable law on the protection of classified information, sources, and methods.

(B) COMPTROLLER GENERAL REPORTS.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Comptroller General of the United States shall submit to Congress and make publically available a report assessing—

(i) the costs associated with [establishing] the Fund and maintaining the oversight structure associated with the Fund compared with [the cost savings associated with the projects funded both annually and over the life of the acquired products and services by the Fund;] *the amount repaid to the Fund in accordance with the terms established in the written agreements described in paragraph (6);*

(ii) the [reliability of the cost savings] *total cost savings* estimated by agencies associated with projects funded by the Fund[;]; *and*

(iii) whether agencies receiving transfers of funds from the Fund used full and open competition to acquire the custom development of information technology products or services[; and].

[(iv) the number of IT procurement, development, and modernization programs, offices, and entities in the Federal Government, including 18F and the United States Digital Services, the roles, responsibilities, and goals of those programs and entities, and the extent to which they duplicate work.]

(c) TECHNOLOGY MODERNIZATION BOARD.—

(1) ESTABLISHMENT.—There is established a Technology Modernization Board to evaluate proposals submitted by agencies for funding authorized under the Fund.

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

(A) to provide input to the Director for the development of processes for agencies to submit modernization proposals to the Board and to establish the criteria by which those proposals are evaluated, which shall include—

(i) *the ability for the head of the agency to ensure repayment of funds transferred from the Fund to the head of the agency, in accordance with subsection (b);*

[(i)] (ii) addressing the greatest security, privacy, and operational risks;

[(ii)] (iii) having [the greatest Governmentwide impact; and] *the greatest impact on modernizing, retiring, or replacing Federal legacy information technology systems; and*

[(iii)] (iv) having a high probability of success based on factors including a strong business case, technical design, consideration of commercial off-the-shelf prod-

ucts and services, procurement strategy (including adequate use of rapid, agile iterative software development practices), and program management;

(B) to make recommendations to the Administrator to assist agencies in the further development and refinement of select submitted modernization proposals, based on an initial evaluation performed with the assistance of the Administrator;

(C) to review and prioritize, with the assistance of the Administrator and the Director, modernization proposals based on criteria established pursuant to subparagraph (A);

(D) to identify, with the assistance of the Administrator, opportunities **to improve or replace multiple information technology systems** *to modernize, retire, or replace legacy information technology systems under subsection (b)(3)(A)(i)* with a smaller number of information technology services common to multiple agencies;

(E) to recommend the funding of modernization projects, in accordance with the uses described in subsection (b)(3), to the Administrator;

(F) to monitor, in consultation with the Administrator, progress and performance in executing approved projects and, if necessary, recommend the suspension or termination of funding for projects based on factors including the failure to meet the terms of a written agreement described in subsection (b)(6) *or the identification of fraudulent or misleading statements about the project (including fraudulent statements about technical design, the business case, or program management with respect to the project) in the application or proposal for amounts from the Fund for the project*; and

(G) to monitor the operating costs of the Fund *to ensure total amounts in the Fund are no less than the amounts needed to keep the Fund operational until the Fund sunsets pursuant to subsection (g)(1)*.

(3) MEMBERSHIP.—The Board shall consist of 7 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—

(A) the Administrator of the Office of Electronic Government; and

(B) a senior official from the General Services Administration having technical expertise in information technology development, appointed by the Administrator, with the approval of the Director **].**; and

(C) *a senior official from the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security, appointed by the Director of the Cybersecurity and Infrastructure Security Agency, with the approval of the Director of the Office of Management and Budget.*

(6) ADDITIONAL MEMBERS OF THE BOARD.—

(A) APPOINTMENT.—The other members of the Board ~~shall be—~~ *shall be 4 employees of the Federal Government primarily having technical expertise in information technology development, financial management, cybersecurity and privacy, and acquisition, appointed by the Director.*

[(i) 1 employee of the National Protection and Programs Directorate of the Department of Homeland Security, appointed by the Secretary of Homeland Security; and

[(ii) 4 employees of the Federal Government primarily having technical expertise in information technology development, financial management, cybersecurity and privacy, and acquisition, appointed by the Director.]

(B) TERM.—Each member of the Board described in paragraph (A) shall serve a term of 1 year, which shall be renewable not more than 4 times at the discretion of the appointing Secretary or Director, as applicable.

(7) PROHIBITION ON COMPENSATION.—Members of the Board may not receive additional pay, allowances, or benefits by reason of their service on the Board.

(8) STAFF.—Upon request of the Chair of the Board, the Director and the Administrator may detail, on a reimbursable or nonreimbursable basis, any employee of the Federal Government to the Board to assist the Board in carrying out the functions of the Board.

(d) RESPONSIBILITIES OF ADMINISTRATOR.—

(1) IN GENERAL.—In addition to the responsibilities described in subsection (b), the Administrator shall support the activities of the Board and provide technical support to, and, with the concurrence of the Director, oversight of, agencies that receive transfers from the Fund.

(2) RESPONSIBILITIES.—The responsibilities of the Administrator are—

(A) to provide direct technical support in the form of personnel services or otherwise to agencies transferred amounts under [subsection (b)(3)(A) and for products, services, and acquisition vehicles funded under subsection (b)(3)(B)] *subsection (b)(3)*;

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

(C) to 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 *and ensure total amounts in the Fund are no less than the amounts needed to keep the Fund operational until the Fund sunsets pursuant to subsection (g)(1)*; and

(D) to provide the Director with information necessary to meet the requirements of subsection (b)(7).

(e) RESPONSIBILITIES OF THE FEDERAL CHIEF INFORMATION OFFICER; AGENCY CHIEF INFORMATION OFFICERS.—

(1) *AGENCY INVENTORY.*—An agency Chief Information Officer, in coordination with stakeholders and other agency officials, shall provide to the Federal Chief Information Officer—

(A) on or before the first September 30 that occurs after the date of the enactment of the Modernizing Government Technology Reform Act of 2023, a list of high-risk legacy information technology systems used, operated, or maintained by the agency, in accordance with the guidance issued under paragraph (4); and

(B) on or before September 30 of each year after the first year in which the list is provided under subparagraph (A), any updates to such list.

(2) *LEGACY FEDERAL IT INVENTORY.*—The Federal Chief Information Officer shall—

(A) on or before the first December 30 that occurs after the date of the enactment of the Modernizing Government Technology Reform Act of 2023, compile a Legacy Federal IT Inventory on the basis of the each list provided by an agency Chief Information Officers under paragraph (1)(A) that includes information about each high-risk legacy information technology system used, operated, or maintained by an agency; and

(B) on or before December 30 each year after the year in which the Legacy Federal IT Inventory is compiled, update such Inventory on the basis of each update to the list provided by an agency Chief Information Officer under paragraph (1)(B).

(3) *PRIORITIZATION LIST.*—

(A) *REQUIREMENT.*—The Federal Chief Information Officer shall—

(i) not later than 90 days after the date on which the Federal Chief Information Officer receives the list required by paragraph (1)(A) from each agency Chief Information Officer, compile, on the basis of each such list, a list of 10 legacy information technology systems that present the greatest security, privacy, and operational risks to the Federal Government; and

(ii) not later than 90 days after the date on which the Federal Chief Information Officer receives updates under paragraph (1)(B) from each agency Chief Information Officer, update the list required by subparagraph (A) on the basis of each updates to the list provided by agency Chief information Officers under paragraph (1)(B).

(B) *REPORT TO CONGRESS.*—Not later than 14 days after the date on which the Federal Chief Information Officer compiles the list required by subparagraph (A), or updates such list, the Director shall submit to the Committee on Oversight and Accountability of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Comptroller General of the United States, a report (which may include a classified annex) containing—

(i) such list (including any update made to such list under subparagraph (A)(ii)); and

(ii) each list provided by an agency Chief Information Officer under paragraph (1)(A) (including any update made to any such list under paragraph (1)(B)).

(4) GUIDANCE.—

(A) IN GENERAL.—Not later than 180 days after enactment of this Act, the Director shall issue guidance on implementing the requirements of this subsection that shall, at a minimum—

(i) prescribe an appropriate format for list to be provided under paragraph (1)(A);

(ii) prescribe the information to be included in the Legacy Federal IT Inventory required by paragraph (2);

(iii) provide guidance on how an agency Chief Information Officer should identify high-risk legacy information technology systems that, at least, requires agency Chief Information Officers, in coordination with other agency stakeholders, to identify as a high risk legacy information technology system any outdated or obsolete system of information technology that is critical to the agency such that the loss or degradation of the system would create a security, operational, or privacy risk to the agency or would otherwise impact the ability of the agency to perform the mission of the agency, effectively deliver programs, or conduct business; and

(iv) provide guidance on how existing reporting structures can be used to submit the Legacy Federal IT inventory required by paragraph (2).

(B) UPDATES.—The Director may update the guidance issued under subparagraph (A) as the Director determines necessary.

(5) DEFINITIONS.—In this subsection:

(A) AGENCY CHIEF INFORMATION OFFICER.—The term “agency Chief Information Officer” means a Chief Information Officer designated under section 3506(a)(2) of title 44, United States Code.

(B) FEDERAL CHIEF INFORMATION OFFICER.—The term “Federal Chief Information Officer” means the Administrator of the Office of Electronic Government.

[(e)] (f) EFFECTIVE DATE.—This section shall take effect on the date that is 90 days after the date of enactment of this Act.

[(f)] (g) SUNSET.—

(1) IN GENERAL.—[On and after the date that is 2 years after the date on which the Comptroller General of the United States issues the third report required under subsection (b)(7)(B),] After December 31, 2030, the Administrator may not award or transfer funds from the Fund for any project that is not already in progress as of such date.

(2) TRANSFER OF UNOBLIGATED AMOUNTS.—Not later than 90 days after the date on which all projects that received an award from the Fund are completed, any amounts in the Fund shall be transferred to the general fund of the Treasury and shall be used for deficit reduction.

(3) TERMINATION OF TECHNOLOGY MODERNIZATION BOARD.—  
Not later than 90 days after the date on which all projects that  
received an award from the Fund are completed, the Tech-  
nology Modernization Board and all the authorities of sub-  
section (c) shall terminate.

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