FEDERAL A.I. GOVERNANCE AND TRANSPARENCY ACT OF 2024

DECEMBER 18, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 7532]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Accountability, to whom was referred the bill (H.R. 7532) to amend chapter 35 of title 44, United States Code, to establish Federal AI system governance requirements, and for other purpose, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

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 "Federal A.I. Governance and Transparency Act of 2024".

SEC. 2. ESTABLISHMENT OF FEDERAL AGENCY ARTIFICIAL INTELLIGENCE SYSTEM GOVERN-ANCE REQUIREMENTS.

(a) FEDERAL AI SYSTEM GOVERNANCE.—

(1) AMENDMENT.—Chapter 35 of title 44, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—ARTIFICIAL INTELLIGENCE SYSTEM GOVERNANCE

"§ 3591. Purposes

"The purposes of this subchapter, with respect to the design, development, acquisition, use, management, and oversight of artificial intelligence in the Federal Government, are to ensure the following:

"(1) Actions that are consistent with the Constitution and any other applicable law and policy, including those addressing freedom of speech, privacy, civil rights, civil liberties, and an open and transparent Government.

"(2) Any such action is purposeful and performance-driven, including ensuring the following:

"(A) Such action promotes the consistent and systemic treatment of all individuals in a fair, just, and impartial manner.

"(B) The public benefits of such action significantly outweigh the risks.

"(C) The risks and operations of such action do not unfairly and disproportionately benefit or harm an individual or subgroup of the public.

"(D) The risk of such action is assessed and responsibly managed, including before the use of artificial intelligence.

"(3) Any application of artificial intelligence is consistent with the use cases for which the artificial intelligence was trained, and the deployers of such application promote verifiably accurate, ethical, reliable, and effective use.

"(4) The safety, security, and resiliency of artificial intelligence applications, including resilience when confronted with any systematic vulnerability, adversarial manipulation, and other malicious exploitation.

"(5) The purpose, operations, risks, and outcomes of artificial intelligence applications are sufficiently explainable and understandable, to the extent practicable, by subject matter experts, users, impacted parties, and others, as appropriate.

"(6) Such action is responsible and accountable, including by ensuring the following:

"(A) Human roles and responsibilities are clearly defined, understood, and appropriately assigned.

"(B) Artificial intelligence is used in a manner consistent with the purposes described in this section and the purposes for which each use of artificial intelligence is intended.

"(C) Such action, as well as relevant inputs and outputs of artificial intelligence applications, are well documented and accountable.

"(7) Responsible management and oversight by ensuring the following:

"(A) Artificial intelligence applications are regularly tested against the purposes described in this section.

"(B) Mechanisms are maintained to supersede, disengage, or deactivate applications of artificial intelligence that demonstrate performance or outcomes that are inconsistent with the intended use or this subchapter.

"(C) Engagement with impacted communities.

"(8) Transparency in publicly disclosing relevant information regarding the use of artificial intelligence to appropriate stakeholders, to the extent practicable and in accordance with any applicable law and policy, including with respect to the protection of privacy, civil liberties, and of sensitive law enforcement, national security, trade secrets or proprietary information, and other protected information.

"(9) Accountability for the following:

"(A) Implementing and enforcing appropriate safeguards necessary to comply with the purposes described in this section and the requirements of this subchapter, for the proper use and functioning of the applications of artificial intelligence.

"(B) Monitoring, auditing, and documenting compliance with those safeguards, as appropriate.

"(C) Providing appropriate training to all agency personnel responsible for the design, development, acquisition, use, management, and oversight of artificial intelligence.

"§ 3592. Definitions

"In this subchapter:

"(1) IN GENERAL.—Except as provided in paragraph (2), the definitions under sections 3502 shall apply to this subchapter.

"(2) ADDITIONAL DEFINITIONS.—In this subchapter:

"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of General Services.

"(B) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Oversight and Accountability of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

"(C) ARTIFICIAL INTELLIGENCE.—The term 'artificial intelligence' has the meaning given the term in section 238(g) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061).

"(D) ARTIFICIAL INTELLIGENCE SYSTEM.—The term 'artificial intelligence system' means any data system, software, application, tool, or utility that operates in whole or in part using dynamic or static machine learning algorithms or other forms of artificial intelligence, whether—

"(i) the data system, software, application, tool, or utility is established primarily for the purpose of researching, developing, or implementing artificial intelligence technology; or

"(ii) artificial intelligence capability is integrated into another system or business process, operational activity, or technology system.

"(E) FEDERAL ARTIFICIAL INTELLIGENCE SYSTEM.—The term 'Federal artificial intelligence system' means an artificial intelligence system used in connection with a Federal information system.

"(F) FEDERAL INFORMATION SYSTEM.—The term 'Federal information system' has the meaning given the term in section 11331(g) of title 40.

"(G) NATIONAL SECURITY SYSTEM.—The term 'national security system' has the meaning given that term in section 3552(b) of title 44.

"§ 3593. Authority and functions of the Director

"The Director shall oversee the design, development, acquisition, use, management, and oversight of Federal artificial intelligence systems by agencies to implement the purposes described in section 3591. In performing such oversight, the Director shall do the following:

"(1) Develop, coordinate, and oversee the implementation of policies, purposes, standards, and guidelines to ensure appropriate use of Federal artificial intelligence systems and the protection of civil rights, civil liberties, and privacy, including in conformity with section 552a of title 5 and other applicable laws, as well as the integrity of Federal information systems and information technology in accordance with the other requirements of this chapter.

"(2) Oversee agency compliance with the requirements of this subchapter, including through any authorized enforcement action under section 11303(b)(5) of title 40 to ensure agency accountability and compliance.

"(3) Issue and update, as necessary, guidance to agencies to take steps to advance the governance of Federal artificial intelligence systems, manage risk, and remove relevant barriers to innovation, consistent with the requirements of this subchapter and, as appropriate the standards promulgated under section 22A of the National Institute of Standards and Technology Act (15 U.S.C. 278h–1) pursuant to section 5302 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 9441) that addresses the following:

"(A) The development of policies regarding Federal acquisition, procurement, and use by agencies regarding artificial intelligence, including an identification of the responsibilities of agency officials managing the use of such technology.

"(B) The ownership and protection of data and other information created, used, processed, stored, maintained, disseminated, disclosed, or disposed of by a contractor or subcontractor (at any tier) on behalf of the Federal Government.

"(C) The protection of training data, algorithms, and other components of any Federal artificial intelligence system against misuse, unauthorized alteration, degradation, or being rendered inoperable.

"(D) The removal of barriers to responsible agency use of artificial intelligence, such as information technology, data, workforce, and budgetary barriers, in order to promote the innovative application of those tech-

nologies while protecting privacy, civil liberties, civil rights, and economic and national security.

"(E) The establishment of best practices for identifying, assessing, and mitigating any discrimination in violation of title VI of the Civil Rights Act of 1964 (42. U.S.C. 2000d et seq.), or any unintended consequence of the use of artificial intelligence, including policies to—

"(i) identify data used to train artificial intelligence;

"(ii) identify data analyzed or ingested by Federal artificial intelligence systems used by the agencies; and

"(iii) require periodic evaluation of Federal artificial intelligence systems, as appropriate.

"(4) Issue guidance for agencies to establish a plain language notification process, as necessary and appropriate and in conformity with applicable law, including section 552a of title 5, for individuals or entities impacted by an agency determination that has been based solely on an output from, or substantively and meaningfully informed, augmented, or assisted by a Federal artificial intelligence system, including the contents of any notice, including examples of what the notice may look like in practice.

"(5) Issue guidance for agencies to review their appeals process and to make modifications, as necessary and appropriate, to account for determinations made solely by or substantively and meaningfully informed, augmented, or assisted by a Federal artificial intelligence system, including guidance on how an agency provides the impacted individual or entity the opportunity for an alternative review independent of the Federal artificial intelligence system, as appropriate.

"(6) Provide guidance and a template for the required contents of the agency plans described in section 3594(6) that uses a uniform resource locator that is in a consistent format across agencies such as the format 'agencyname.gov/AI'.

"(7) Issue guidance, including a uniform required submission format and criteria for updating entries after significant changes, for the establishment of agency AI governance charters under section 3595, including defining high-risk Federal artificial intelligence systems, and publication under section 3596.

"§ 3594. Federal agency responsibilities

"The head of each agency shall do the following:

"(1) Comply with the requirements of this subchapter and related policies, purposes, standards, and guidelines, including those under section 552a of title 5 and in guidance issued by the Director under section 3593.

"(2) Ensure that Federal artificial intelligence system management processes are integrated with agency strategic, operational, data, workforce planning, and budgetary planning processes, and other requirements under this chapter.

"(3) Ensure that senior agency officials, including the Chief Information Officer, the Chief Data Officer, and the senior agency official for privacy, implement policies and procedures regarding Federal artificial intelligence systems under the control of such officers, assess and reduce any risks to such systems to an acceptable level, and periodically assess and validate management procedures and controls to ensure effective implementation of this subchapter.

"(4) Delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the primary authority and accountability to ensure compliance with the agency requirements under this subchapter in coordination with any other appropriate senior agency official designated by the head of the agency.

"(5) Ensure that contracts for the acquisition and procurement of a Federal artificial intelligence system are consistent with the requirements of this subchapter and any guidance issued by the Director under section 3593(3).

"(6) Maintain a plan, posted on a publicly available and centralized webpage of the agency and prepared in accordance with the template provided by the Director under section 3593(6), to—

"(A) achieve consistency with the requirements of this subchapter and guidance issued by the Director; and

"(B) provide the public information about agency policies and procedures for governing Federal artificial intelligence systems, including the inventory of artificial intelligence use cases required by section 7225(a) of the Advancing American AI Act (subtitle B of title LXXII of Public Law 117–263; 40 U.S.C. 11301 note).

"(7) Establish procedures for notifying an individual or entity impacted by an agency determination made solely by an output from, or substantively and meaningfully informed, augmented, or assisted by a Federal artificial intelligence system in accordance with guidance issued by the Director under section 3593(4).

"(8) Modify the agency appeals process, as necessary and appropriate, to account for determinations made solely by or substantively and meaningfully informed, augmented, or assisted by a Federal artificial intelligence system, and to provide the impacted individual or entity the opportunity for an alternative review independent of the Federal artificial intelligence system, as appropriate, as established by the Director under section 3593(5).

"(9) In accordance with guidance issued by the Director under section 3593(7), oversee the establishment of AI governance charters for Federal artificial intelligence systems, including by—

"(A) establishing a process, led by each official identified in section 3594(4) to ensure that each Federal artificial intelligence system has an established AI governance charter that is regularly updated in accordance with the requirements under section 3595 and made publicly available on the webpage under paragraph (6);

"(B) submitting each AI governance charter to the Federal Register not later than 30-days after the initial establishment or termination of the charter, in conformity with guidance from the Director; and

"(C) submitting each AI governance charter to the Administrator for publication in a format established in the Directors guidance in accordance with section 3596.

"(10) In consultation with the Director, the Director of the Office of Personnel Management, and the Administrator of General Services, conduct regular training programs to educate relevant agency program and management officials, including employees supporting the functions of the Chief Information Officer, the Chief Data Officer, the Evaluation Officer, the senior privacy official, and the statistical official, as appropriate, about the management of Federal artificial intelligence systems and compliance with the requirements of this subchapter, which may be integrated with the training requirements and covered topics established by the Artificial Intelligence Training for the Acquisition Workforce Act (Public Law 117–207; 41 U.S.C. 1703 note).

"§ 3595. Agency AI Governance Charters

"(a) IN GENERAL.—In accordance with the guidance established under section 3593(7), the head of each agency shall ensure that an accurate and complete AI governance charter is established for each Federal artificial intelligence system in use by the agency that is designated as a high-risk Federal artificial intelligence system or was trained on, uses, or produces a record maintained on an individual (as defined under section 552a(a) of title 5).

"(b) CONTENTS OF CHARTERS.—An AI governance charter for a Federal artificial intelligence system shall, at a minimum, include the following:

"(1) The name and an identifying summary of the Federal artificial intelligence system, including the following:

"(A) A descriptive summary of each purpose and relevant use case of the system, as may be documented on the inventory established under section 7225 of the Advancing American AI Act (subtitle B of title LXXII of Public Law 117–263; 40 U.S.C. 11301 note).

"(B) The bureau, department, or office using or operating the system, and to the extent practicable, each program designated on the website required under section 1122(a)(2) of title 31 associated with use of the system.

"(C) The name and direct contact information for a designated agency official responsible for the overall outputs of the system.

"(D) The name and direct contact information for a designated agency official responsible for the ongoing maintenance of the system which may be the same official designated under subparagraph (C).

"(2) Information about how the Federal artificial intelligence system was developed and funded, including the following:

"(A) Other individuals or entities that have developed, maintained, managed, and operated the system.

"(B) Information about any relevant Federal award including any associated contract, grant, cooperative agreement, or other transaction agreement.

"(3) Information about the training, validation, and testing of the Federal artificial intelligence system, including the following:

"(A) A description of the type of data or data assets used in the training, validation, and testing of the Federal artificial intelligence system or, if such information is not available, a statement describing why such information is not available.

"(B) A designation of whether any of the data or data assets used in training, validating, or testing the Federal artificial intelligence system are

classified as an open Government data asset or a public data asset or a designated system of record described under paragraph (7).

"(C) Information on how to access any open Government data asset or public data asset identified under subparagraph (B).

"(D) A listing of audits, testing, or other risk assessments of the Federal artificial intelligence system, including contact information of the individual or entity that conducted such assessments.

"(4) Information about ongoing oversight and maintenance of the Federal artificial intelligence system, including a description of the ongoing testing, monitoring, or auditing of the Federal artificial intelligence system, including information about the cadence of testing, as appropriate, and the entity responsible for such testing.

"(5) Information about how the system is used by the agency, including—

"(A) the date the agency began using the system and the intended life span of use, if appropriate; and

"(B) whether any agency determinations have been or are intended to be based solely on an output from, or informed, augmented, or assisted by the Federal artificial intelligence system, and—

"(i) a summary of how the Federal artificial intelligence system or the data or data assets produced by the Federal artificial intelligence system is used to inform, augment, or assist in making these determinations;

"(ii) information about other agencies or federally funded entities that use or rely on these determinations; and

"(iii) a description of any associated notice or modified appeal process as required under section 3593(4) and 3593(5).

"(6) Information about data or data assets produced by the Federal artificial intelligence system, including a description of the data or data assets produced, altered, or augmented by the system, including—

"(A) a designation of whether any of the data or data assets are classified as an open Government data asset or a public data asset or are included in a designated system of record described under paragraph (7);

"(B) information on how to access any such open Government data asset or public data asset identified under subparagraph (A); and

"(C) information about any other agency or federally funded entity known to use or otherwise rely upon the data or data assets identified under this paragraph.

"(7) Information on whether the system was trained on, uses, or produces a record maintained on an individual (as defined under section 552a(a) of title 5), including—

"(A) a listing of any designated system of record including a reference to any associated notice in the Federal Register for the establishment or revision of such system of record, as required under section 552a(d) of title 5; or

"(B) a description of any system of record that has been exempted under subsection (j) or (k) of section 552a of title 5, including the statement required under section 553(c) of title 5 that documents the reasons why the system of records is exempted.

"(c) REGULAR UPDATES REQUIRED.—The head of each agency shall establish procedures to ensure that each AI governance charter for the agency is updated to capture any significant change to the Federal artificial intelligence system, consistent with guidance established in section 3593(7) and not less than 30 days after such change has been implemented.

"(d) REQUIREMENT FOR PUBLICATION.—An AI governance charter required under subsection (a) shall be made public on the agency webpage noticed in the Federal Register, and published on the Federal AI System Inventory established under section 3596, in accordance with procedures established by the agency under section 3594(9) in conformity with guidance issued by the Director under section 3593(7) before a Federal artificial intelligence system is used by an agency, except that—

"(1) the head of an agency may, with advance approval of the Director and notification to the appropriate congressional committees, including the relevant authorizing committee in the House of Representatives and the Senate, and the relevant agency Inspector General, waive the publication requirement under this subsection; or

"(2) in order to protect properly classified national security information, a charter may be submitted to the Director, appropriate congressional committees, including the relevant authorizing committee in the House of Representatives and the Senate, and the relevant agency Inspector General in lieu of the publication requirement of this subsection.

"(e) EXEMPTIONS.—A Federal artificial intelligence system is exempt from the requirements of this section if the system is used—

"(1) solely for the purpose of research or development, except that the purposes described and guidance promulgated under this subchapter should inform any such research, development, testing, or evaluation directed at future applications of Federal artificial intelligence systems; or

"(2) in a national security system, in whole or in part, if the agency maintains a complete and regularly updated nonpublic version of each AI governance charter in accordance with subsections (a) and (b) and the guidance required by section 3593(7).

"§ 3596. AI Governance Charter Inventory

"The Administrator of General Services shall maintain a single, public online interface for centrally cataloging agency AI governance charters which shall be known as the 'Federal AI System Inventory'. The Administrator and the Director shall—

"(1) ensure that each agency, as appropriate, submits AI governance charters for publication on the interface, in a publicly accessible machine-readable and open format to facilitate searchability and bulk download of the inventory; and

"(2) provide a clear process and mechanism for each agency to make timely revisions and updates.

"§ 3597. Independent evaluation

"(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this subchapter, and every 2 years thereafter, the Inspector General appointed under chapter 4 of title 5 for each agency shall perform an independent evaluation of the Federal artificial intelligence governance policies and practices of the agency and submit to the head of the agency, the Director, and the appropriate congressional committees, a report which may include a classified annex. The report shall include at a minimum—

"(1) an assessment of the comprehensive compliance of the agency with the requirement under section 3595 for each Federal artificial intelligence system in use or maintained by an agency to have an established, and appropriately noticed, AI governance charter, including timely revisions to reflect significant changes and appropriate use of the exemptions described under section 3595(e); and

"(2) an assessment of compliance by the agency with artificial intelligence governance policies and practices with the requirements of this subchapter.

"(b) COMPTROLLER GENERAL.—The Comptroller General shall periodically evaluate and submit to Congress a report on the—

"(1) effectiveness of agency Federal artificial intelligence system governance policies and practices;

"(2) implementation of the requirements of this subchapter by the Director, Administrator, and agencies; and

"(3) extent to which the requirements of this subchapter and related implementing guidance and policies reflect technology advancements and provide any legislative recommendations as appropriate.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 35 of title 44, United States Code, is amended by adding at the end the following:

(b) OMB GUIDANCE.—Not later than 1 year after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Director of the National Institute of Standards and Technology, the Administrator of General Services, the Director of the Office of Science and Technology Policy, and the head of any other relevant agency as determined by the Director of the Office of Management and Budget, shall issue a memorandum to the head of each agency establishing guidance that implements the requirements of subchapter IV of title 35 of title 44, as added by this section, that—

(1) does not conflict with the requirements of and uses the working group established under section 7224(d) of the Advancing American AI Act (Public Law 117–263; 40 U.S.C. 11301 note); and

(2) shall be reviewed and updated, as necessary, every 2 years for the next 10 years after the first such issuance and periodically thereafter.

(c) REQUIREMENT TO LIST AI GOVERNANCE CHARTERS IN AGENCY SYSTEM OF RECORDS NOTICE UNDER THE PRIVACY ACT.—Section 552a(e) of title 5, United States Code, is amended—

    (1) in paragraph (4)—

        (A) in subparagraph (H), by striking "and" at the end;

        (B) in subparagraph (I), by striking the semicolon and inserting "; and"; and

        (C) by adding at the end the following new subparagraph:

        "(J) a reference to any agency AI governance charter required under section 3595 of title 44 that is associated with a Federal artificial intelligence system which was trained on, uses, or produces records contained within the system of record;";

    (2) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

    (3) by inserting after paragraph (10) the following new paragraph:

    "(11) establish appropriate policies and procedures, in accordance with the requirements of subchapter IV of chapter 35 of title 44 to ensure the security, confidentiality, and integrity of records that a Federal artificial intelligence system uses, produces, or modifies;".

(d) TECHNICAL AND CONFORMING REPEALS.—The following are repealed:

    (1) Subsections (a) and (d) of section 7224 of the Advancing American AI Act (subtitle B of title LXXII of Public Law 117–263; 40 U.S.C. 11301 note).

    (2) Section 104 of the AI in Government Act of 2020 (Public Law 116–260; 40 U.S.C. 11301 note).

(e) CONTRACTING REGULATIONS.—Not later than 6 months after the date on which the first guidance is established pursuant to subsection (b), the Federal Acquisition Regulation shall be revised to—

    (1) implement the amendments made by this section; and

    (2) require that any contractor or subcontractor (at any tier) with the Federal Government that builds, provides, operates, or maintains (pursuant to a contract entered into on or after such date of enactment) Federal artificial intelligence systems is required to provide the information that the agency is required to report in accordance with the guidance issued pursuant to section 3593(5) of title 44, United States Code, as added by subsection (a), and any agency requirement under section 3595(a) of such title.

(f) RULES OF CONSTRUCTION.—

    (1) AGENCY ACTIONS.—Nothing in this Act, or an amendment made by this Act, shall be construed to authorize the head of an agency to take an action that is not authorized by this Act, an amendment made by this Act, or other law.

    (2) PROTECTION OF RIGHTS.—Nothing in this Act, or an amendment made by this Act, shall be construed to permit the violation of the rights of any individual protected by the Constitution of the United States, including through censorship of speech protected by the Constitution of the United States or unauthorized surveillance.

    (3) PROTECTION OF PRIVACY.—Nothing in this Act, or any amendment made by this Act, shall be construed to impinge on the privacy rights of individuals or allow unauthorized access, sharing, or use of personal data.

    (4) PROTECTION OF INFORMATION.—Nothing in this Act, or any amendment made by this Act, shall be construed to require, or otherwise compel, the public disclosure of information that could be withheld under section 552(b) of title 5, United States Code.

(g) DEFINITIONS.—In this section:

    (1) AGENCY.—The term "agency" has the meaning given that term in section 3502 of title 44, United States Code.

    (2) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget, unless otherwise indicated.

SUMMARY AND PURPOSE OF LEGISLATION

H.R. 7532 centrally codifies federal agency governance policies for the responsible use of artificial intelligence (AI) while consolidating and streamlining relevant existing laws. In doing so, the bill focuses government resources on increasing transparency, oversight, and responsible use of Federal AI systems while protecting the public's privacy and civil liberties. The bill establishes a new "Subchapter IV—Artificial Intelligence System Governance" in title 44, chapter 35 which places the Office of Management and Budget

in charge of issuing government-wide policy guidance in harmony with existing federal IT and data policy requirements. The bill also requires public notice of AI systems used by federal agencies through AI Governance Charters, including identification of testing and validation processes, responsible agency officials, maintenance plans, public data assets used or modified, impacted personal information records, and downstream impacts on agency programs or determinations related to financial assistance or regulatory enforcement. The bill establishes a Federal AI System Inventory and requires that the General Services Administration maintain a single, public interface that centrally catalogs the Charters. H.R. 7532 also streamlines and consolidates existing law regarding the government's use of AI, including requirements for agencies to provide protections or safeguards commensurate with the risks of Federal AI systems, and repeals repetitive provisions in the AI in Government Act of 2020 and the Advancing American AI Act of 2022.

BACKGROUND AND NEED FOR LEGISLATION

When used responsibly, AI systems have the potential to improve federal government operations, enhance national and homeland security, and streamline service delivery.

Federal agencies have already begun to leverage AI for a variety of use cases. For instance, a February 2020 Stanford University report submitted to the Administrative Conference of the United States (ACUS) found that "nearly half of the federal agencies studied have experimented with AI and related machine learning tools."[1] The report emphasized that the "use of AI-based tools to support government decision-making, implementation, and interaction—what could be called 'algorithmic governance'—already spans the work of the modern administrative state."[2]

In a more recent December 2023 report, the U.S. Government Accountability Office (GAO) surveyed twenty-three federal agencies to better understand their current and planned use of AI.[3] GAO found that twenty of the surveyed agencies were using AI and that, collectively, these agencies reported approximately 200 instances of AI use and approximately 1,000 instances of planned AI use.[4] AI.gov also publicizes AI use cases across the federal government and includes a portal for professionals and students to join the national AI talent surge.[5]

In a number of cases, federal agencies have successfully used AI to better achieve their missions. For instance, the Department of Homeland Security (DHS) Immigration and Customs Enforcement uses AI to "streamline the process of correcting data entry errors."[6] The General Services Administration (GSA) uses a Solicitation Review Tool to intake and review all SAM.gov data to ensure that solicitations contain compliance language, flagging those that don't as

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[1] David Freeman Engstrom, Daniel E. Ho, Catherine M. Sharkey, and Mariano-Florentino Cuéllar, *Government by Algorithm: Artificial Intelligence in Federal Administrative Agencies*, (Feb, 2020), https://law.stanford.edu/wp-content/uploads/2020/02/ACUS-AI-Report.pdf.
[2] *Id.*
[3] U.S. GOV'T ACCOUNTABILITY OFF., GAO–24–105980, Artificial Intelligence: Agencies Have Begun Implementation but Need to Complete Key Requirements, (Dec 12, 2023), https://www.gao.gov/products/gao-24-105980.
[4] *Id.*
[5] *AI.gov*, http://ai.gov.
[6] *Artificial Intelligence Use Case Inventory*, DEPT. OF HOMELAND SECURITY.

"non-compliant".[7] Further, the State Department, Department of Justice, and Centers for Disease Control and Prevention have all reportedly used machine-learning models to search for information in government record repositories.[8]

These use cases vary in both application and maturity but nonetheless indicate that the federal government has found relevant uses for AI systems to empower existing agency missions and streamline programs. The potential benefits of responsible government use of AI are enormous; however irresponsible or improper use fosters risks to individual privacy and the fair and equal treatment of all citizens by their government.

As agencies use AI today and identify use cases for the future, Congress must put in place the necessary safeguards in H.R. 7532 to protect the public's privacy, civil rights, and civil liberties. The public needs to know that their government agency missions and programs have mature policies in place to capitalize on the benefits of AI while safeguarding against 'algorithmic *based*' decision-making that relies solely on AI systems without the appropriate governance and transparency policies to ensure proper and effective use. Policymakers should instead pursue 'algorithmic *informed*' decision-making in support of missions and programs through proper governance of AI systems and policy design which accounts for the inherent limitations of AI systems within certain use cases.

The federal government already has numerous, established policies in place governing federal information systems, data, cybersecurity, and procurement that should be leveraged for future AI policy development. AI policy that does not engage with existing information system level requirements across these policy domains will exist outside of the current management structure for federal information systems, leading to confusion, inefficiency, undue administrative or industry burden, and ultimately overlapping or competing legal or policy requirements. For instance, legislation governing federal agency use of AI should build upon existing areas of law governing federal information policy and security (Chapter 35, Title 44, U.S. Code) or the acquisition of information technology (Chapter 113, Title 40, U.S. Code)—and where necessary, repetitive or conflicting requirements and definitions should be repealed or harmonized.

Transparency is an important first step to inform future policymaking.[9] A primary challenge in effective governance of AI systems is forming a holistic understanding of the system's design and provenance, the context of its use for specific applications, and the ongoing monitoring and maintenance of its outputs. Transparency requirements around federal agency use of AI, such as those included in H.R. 7532, can provide important information about government AI systems to the public, internal government management, Congress, and stakeholders impacted by AI informed outputs.[10]

There are certain challenges, however, in establishing transparency requirements for AI systems trained on or using public in-

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[7] *AI Inventory*, TECH AT GSA, GENERAL SERVICES ADMINISTRATION.
[8] Lewis Kamb, *Some U.S. government agencies are testing out AI to help fulfill public records requests*, NBC NEWS (Aug. 1, 2023).
[9] Alex Engler, *The AI Regulatory Toolbox: How Governments Can Discover Algorithmic Harms*, Brookings (2023), https://www.brookings.edu/articles/the-ai-regulatory-toolbox-how-governments-can-discover-algorithmic-harms/.
[10] *Id.*

formation. Faculty from the University of Copenhagen, in a recent research article titled, "The Right to Transparency in Public Governance: Freedom of Information and the Use of Artificial Intelligence by Public Agencies," found that:

> [F]or AI algorithms used in public governance, there is the additional problem that the data and knowledge used for creating the algorithm as well as the test data often contain personal information that cannot be made public. Transparency then has to rely on documentation for how the data used for the design and test has been produced instead of access to the underlying test data.[11]

The challenges in gaining total transparency into AI models points to the need to look at AI system transparency and governance in the context of the operational environment in which these systems reside. In other words, maintaining sound policies over federal IT and data supporting AI systems will enable better governance over the AI ultimately used by agencies. Additionally, transparency policies should be designed to enable proper governance internal to governmental functions (e.g., enabling oversight functions internal to the intelligence community or Congress's oversight role over executive branch agencies) while also pursuing public transparency requirements in order to enable the appropriate levels of operational management, governance, and oversight over an AI system's entire lifecycle. Such policies should be applied in context of the complexity and corresponding risk profile of the AI systems (i.e., simple process automation and workflow tools should not require the same level of system governance controls as large language models deployed with access to sensitive public sector data sets) so as to not unnecessarily impede agency adoption.

In recent years, Congress has passed an assortment of AI-related legislation, and the Trump and Biden administrations have issued a variety of executive orders and policies regarding agency use of AI. These initiatives, which are outlined below, have produced positive, but at times disjointed or contradictory directives for the management of federal agency AI systems as such policies and laws have spanned multiple Administrations and Congresses while AI technology has rapidly evolved.

In February 2019, President Trump issued Executive Order 13859 on Maintaining American Leadership in Artificial Intelligence, which established the American AI Initiative coordinated through the National Science and Technology Council.[12] This initiative directed implementing agencies to consider AI as an agency research and development (R&D) priority, to increase the non-Federal research community's access to data and computing resources for AI R&D, and to invest in AI-related educational and workforce development.[13] EO 13859 also directed the OMB Director to issue guidance to inform agency approaches to AI applications and regulations.[14]

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[11] Henrik Palmer Olsen, Thomas Troels Hildebrandt, Cornelius Wiesener, Matthias Smed Larsen, and Asbjørn William Ammitzbøll Flügge. 2024. The Right to Transparency in Public Governance: Freedom of Information and the Use of Artificial Intelligence by Public Agencies. Digit. Gov.: Res. Pract. 5, 1, Article 8 (March 2024), 15 pages. https://doi.org/10.1145/3632753.

[12] Exec. Order No. 13859, 84 FR 3967 (Feb. 14, 2019).

[13] Id.

[14] Id.

In December 2020, President Trump issued Executive Order 13960 on Promoting the Use of Trustworthy Artificial Intelligence in the Federal Government, which directs agencies to adhere to a common set of nine principles to guide agency design, development, acquisition and use of AI.[15] EO 13960 also directs agencies to prepare, and in most cases publish, inventories of current and planned uses of AI to foster transparency into the federal government's use of AI.[16]

Also in December 2020, Congress enacted the AI in Government Act of 2020 (P.L. 116–260 Division U, Title I; 40 U.S.C. 11301 note), which requires OMB to issue government-wide guidance on agency use of AI and agency AI governance plans.[17] This legislation also established an AI occupational series for the federal workforce.[18]

In January 2021, Congress enacted the National AI Initiative Act of 2020, (P.L. 116–283), which established the National Artificial Intelligence Initiative and required the White House Office of Science and Technology Policy (OSTP) to establish or designate the National Artificial Intelligence Initiative Office to coordinate ongoing AI research, development, and demonstration activities across the federal government and carry out additional responsibilities with respect to this initiative.[19] This legislation also requires the National Institute of Standards and Technology (NIST) to develop voluntary standards for artificial intelligence systems.[20]

In October 2022, Congress enacted the AI Training for the Acquisition Workforce Act, (P.L. 117–40; 41 U.S.C. 1703 note), which requires OMB and GSA to provide a training program on AI for the program management and acquisition workforce to ensure they have knowledge of the capabilities and risks associated with AI.[21]

In October 2022, President Biden's OSTP issued a Blueprint for an AI Bill of Rights, which is a white paper providing non-binding, directional guidance regarding the development and use of AI systems that "have the potential to meaningfully impact the American public's rights, opportunities, or access to critical resources or services."[22] The Blueprint does not constitute U.S. government policy.[23]

In December 2022, Congress enacted the Advancing American AI Act, (P.L. 117–263, Title LXXII, Subtitle B; 40 U.S.C. 11301 note), which expands the AI in Government Act of 2020 by directing OMB to also consider Executive Order 13960, cross-government input, and the recommendations form the National Security Commission on Artificial Intelligence while developing the guidance required by that legislation.[24] This legislation also encourages OMB to des-

[15] Exec. Order No. 13960, 85 FR 78939 (Dec. 8, 2020).

[16] *Id.*

[17] Consolidated Appropriations Act, 2021, Pub. L. No. 116–260, Div. U, Title I, AI in Govt. Act (2020).

[18] *Id.*

[19] William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116–283, Title XLVII, Div. E, National Artificial Intelligence Initiative Act of 2020 (2021).

[20] *Id.*

[21] Artificial Intelligence Training for the Acquisition Workforce Act, Pub. L. No. 117–207 (2022).

[22] *Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People*, WHITEHOUSE.GOV, (October 2022).

[23] *Id.*

[24] James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. No. 117–263, Title LXXII, Subtitle B, Advancing American AI Act (2022).

ignate a centralized, public inventory of AI use cases and requires OMB to identify four new use cases where AI can support inter-agency modernization initiatives to improve operations across organizational boundaries, including to "drive agency productivity efficiencies" or "accelerate agency investment return".[25]

In January 2023, NIST issued an AI Risk Management Framework (AI RMF 1.0), which is a voluntary framework developed by NIST to inform responsible development and use of AI systems.[26]

In October 2023, President Biden issued Executive Order 14110 on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, which establishes eight guiding principles and includes dozens of new reforms, guidelines, rules, and programs across eight key workstreams. EO 14110 tasks over 50 federal entities with approximately 150 distinct requirements.[27] EO 14110 also includes several requirements and guidelines for federal agency use of AI, including a requirement that the Technology Modernization Board consider prioritizing AI projects when awarding funds from the Technology Modernization Fund; a requirement that agencies implement or increase the availability of AI training programs from employees, managers, and leadership in technology and relevant policy fields; a requirement that GSA facilitate access to federal government-wide acquisition solutions for AI services and products, including generative AI and computing infrastructure; and a requirement that the White House Deputy Chief of Staff for Policy convene an AI and Technology Talent Task Force to accelerate and monitor the hiring and training of AI talent in the federal government.

In March 2024, OMB issued M–24–10, a memorandum for the heads of executive departments and agencies on Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence, which directs agencies to advance AI governance and innovation while managing risks from the use of AI in the Federal Government.[28]

In September 2024, OMB issued M–24–18, a memorandum for the heads of executive departments and agencies on Advancing the Responsible Acquisition of Artificial Intelligence in Government, which directs agencies to improve their capacity for the responsible acquisition of AI.[29]

While these initiatives have produced positive directives for federal agencies, important steps remain to achieve a more useful and comprehensive governance framework for federal agency AI use. For example, the Center for Democracy and Technology stated in a recent review of federal agency AI inventories that "[t]he information provided by each agency is inconsistent and unclear, mak-

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[25] *Id.*

[26] National Institute of Standards and Technology, NIST AI 100–1, Artificial Intelligence Risk Management Framework (AI RMF 1.0) (January 2023).

[27] Rishi Bommasani et al., *Decoding the White House AI Executive Order's Achievements,* STANFORD UNIVERSITY HUMAN-CENTERED ARTIFICIAL INTELLIGENCE (Nov. 2, 2023), available at: https://hai.stanford.edu/news/decoding-white-house-ai-executive-orders-achievements.

[28] Office of Management and Budget, M–24–10, Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence, (March 2024).

[29] Office of Management and Budget, M–24–18, Advancing the Responsible Acquisition of Artificial Intelligence in Government, (September 2024).

ing it difficult for the public to understand exactly how the use of AI impacts them." [30]

H.R. 7532 builds on the core themes of these past efforts by centrally codifying federal agency governance and responsible use policies while consolidating and streamlining other existing federal agency AI laws in order to reduce duplicative or contradictory directives to federal agencies, simplify compliance, and provide a strong foundation for future legislative efforts. In doing so, the bill focuses government resources on increasing transparency, oversight, and responsible use of Federal AI systems while protecting the public's privacy and civil liberties.

Specifically, H.R. 7532 establishes a new "Subchapter IV—Artificial Intelligence System Governance" in title 44, chapter 35 which places the Office of Management and Budget in charge of issuing government-wide policy guidance in harmony with existing federal IT and data policy requirements and codifies statutory standards for the development, acquisition, use, management, and oversight of AI used by federal agencies.

H.R. 7532 also requires public notice of AI systems used by federal agencies through AI Governance Charters, including identifying testing and validation processes, responsible agency officials, maintenance plans, descriptions of public data assets used or modified, impacted personal information records, and downstream impacts on agency programs or determinations related to financial assistance or regulatory enforcement. The bill establishes a Federal AI System Inventory by requiring the General Services Administration to maintain a single, public interface that centrally catalogs the Governance Charters, and requires agencies to ensure existing appeals processes provide an opportunity for alternative review independent of AI.

Further, H.R. 7532 streamlines and consolidates existing law regarding the government's use of AI, including requirements for agencies to provide protections or safeguards for Federal AI systems that are commensurate with risk, and repeals repetitive provisions in the AI in Government Act of 2020 and the 2022 Advancing American AI Act. This bill was favorably reported out of the Oversight Committee on March 7th, 2024.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 2. Establishment of Federal agency artificial intelligence system governance requirements

Subsection (a) adds a new Subchapter IV in Chapter 35, Title 44 of the U.S. Code to establish federal agency AI system governance requirements, including the following new sections:

- "§ 3591. Purposes. Codifies nine directives for agency heads to adhere to when designing, developing, acquiring, using, managing, or conducting oversight over AI in the Federal Government.
- "§ 3592. Definitions. Applies existing definitions under 44 U.S.C. 3502 and defines additional terms including: "artificial

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[30] Bowman Cooper, *Like Looking for a Needle in an AI Stack*, Center for Democracy and Technology (2023). https://cdt.org/insights/like-looking-for-a-needle-in-an-ai-stack/.

intelligence," "artificial intelligence system," "federal artificial intelligence system," "federal information system," and "national security system."

- "§ 3593. Authority and functions of the Director. Places the Director of the Office of Management and Budget (OMB) in charge of overseeing government-wide use of federal AI systems, including implementation of the purposes outlined in section 3591, as well as:
  - Developing, coordinating, and overseeing the implementation of policies, principles, standards, and guidelines to ensure appropriate use of federal AI systems for the protection of civil rights and civil liberties, and conformity with existing Privacy Act (5 U.S.C. 552a) and federal information system protections.
    - Note: Recodifies existing provisions of section 7224(d)(1)(B) of the Advancing American AI Act (P.L. 117–263, Division G, Title LXXII, Subtitle B; 40 U.S.C. 11301 note).
  - Requiring agencies to identify and provide protections and safeguards for the use of federal AI systems commensurate with the risk in a consistent manner with the standards promulgated under the National Institute of Standards and Technology Act (15 U.S.C. 278h–1).
  - Recommending approaches to removing barriers to agency use of AI technologies while protecting privacy, civil liberties, civil rights, and economic and national security, as well as, identifying, assessing, and mitigating any discriminatory impact or bias.
    - Note: Recodifies existing provisions of section 104(a)(1)–(3) of the AI in Government Act (P.L. 116–260, Division U, Title I; 40 U.S.C. 11301 note) and section 7224(d)(1) of the Advancing American AI Act (P.L. 117–263, Division G, Title LXXII, Subtitle B; 40 U.S.C. 11301 note).
  - Providing agencies with guidance to establish a plain language notification and appeals process that conforms with existing statutory requirements regarding the protection of agency records for individuals or entities impacted by an agency determination based on a federal AI system output.
  - Providing guidance and a template for the agency AI plans described in section 3594 and issuing guidance to help agencies establish the AI governance charters, including defining high-risk Federal artificial intelligence systems, described in section 3595.
- "§ 3594. Federal agency responsibilities. Requires the head of each agency to ensure that federal AI system management processes are integrated with agency planning and that senior agency officials implement necessary policies and procedures, with the agency Chief Information Officer (CIO), in coordination with other appropriate senior agency AI officials, being the responsible agency official for compliance with this subchapter.
  - Requires a public plan providing information about the agency's federal AI system governance policies and procedures, including the inventory of AI use cases as re-

quired by section 7225(a) of the Advancing American AI Act (P.L. 117–263; 40 U.S.C. 11301 note).

○ Requires the modification of an agency's appeals process for individuals or entities impacted by federal agency determinations that were substantively and meaningfully augmented by a federal AI system.

○ Requires, in accordance with OMB guidance and section 3595, the implementation of regularly updated AI governance charters that are submitted to the Federal Register and the General Services Administration (GSA) for publication under section 3596.

○ Requires regular training programs for relevant agency employees on federal AI system management requirements, which may be integrated into training requirements established by the A.I. Training for the Acquisition Workforce Act (P.L. 117–207).

• "§ 3595. Agency AI Governance Charters. Requires agency heads to ensure that an accurate and complete AI governance charter is established for each federal AI system in use by an agency that has been designated as high-risk (as defined by OMB guidance) or interacts with a record maintained on an individual (as defined under the Privacy Act; 5 U.S.C. 552a)—with a required annual review and requirement that a new charter be issued within 30 days of any major system changes—and specifies the required AI governance charter contents, including:

○ The bureau, department, or office using or operating the federal AI system, and the contact information for the designated agency official responsible for maintenance of the system.

○ Information about how the federal AI system was developed and funded, including the training, validation, and testing of the system.

○ Information about ongoing oversight and maintenance of the system, including the cadence of system testing, validation, monitoring, and auditing, and performance metrics considered by the agency.

○ Information about how the system is used, the data or data assets produced by the system, and whether the system was trained on, uses, or produces a federal record maintained on an individual.

○ Subsection (d) requires the AI governance charter of each agency to be made public on the agency webpage and noticed in the Federal Register but allows an agency head to waive the publication requirement with approval by the OMB Director and notification to Congress and the agency Inspector General, or to protect properly classified national security information.

○ Subsection (e) exempts federal AI systems used solely for research and development or systems used in national security systems from the requirements of this section.

• § 3596. AI Governance Charter Inventory. This section requires the GSA Administrator to maintain a single, public, online interface for centrally cataloging agency AI governance charters in a machine-readable and open format for bulk

download, which shall be known as the "Federal AI System Inventory."

- "§ 3597. Independent evaluation. Requires IGs to evaluate the federal AI governance policies and practices of the agency every two years and submit to the agency head, the OMB Director, and Congress, a report which may include a classified annex and directs the Comptroller General to periodically evaluate and submit to Congress a report on the effectiveness of agency federal AI system governance policies and practices.

Subsection (b) requires the OMB Director—in consultation with NIST, GSA, and the Office of Science and Technology Policy (OSTP)—to issue a memo to agencies one year after enactment (to be updated as necessary every two years and then periodically after 10 years) establishing guidelines for implementing the requirements of this Act's newly established Subchapter IV.

Subsection (c) updates the Privacy Act (5 U.S.C. 552a) to include listing of any related AI governance charters in an agency system of records notice and to ensure the security, confidentiality, and integrity of federal AI system records.

Subsection (d) repeals provisions of the AI in Government Act and the Advancing American AI Act which have been recodified into the new Subchapter IV established by subsection (a) of this Act.

Subsection (e) requires that within six months after the issuance of OMB guidance under subsection (b) the Federal Acquisition Regulation (FAR) will be updated to reflect the amendments made in this section and require contractors and subcontractors that work on federal AI systems to provide agencies with the information necessary for compliance with this Act.

Subsection (f) restricts the ability of agencies to take actions not authorized by this Act, specifies protections of individuals' constitutional and privacy rights, and clarifies that nothing in the Act should be construed as requiring the public disclosure of information that could otherwise be withheld under the Freedom of Information Act (5 U.S.C. 522(b)).

Subsection (g) clarifies that the definition of "agency" and "Director".

LEGISLATIVE HISTORY

H.R. 7532, the Federal AI Governance and Transparency Act, was introduced on March 5, 2024, by Representative James Comer. The following Representatives are cosponsors of the bill: Jamie Raskin (D–MD), Nancy Mace (R–SC), Alexandria Ocasio-Cortez (D–NY), Clay Higgins (R–LA), Gerald E. Connolly (D–VA), Nicholas A. Langworthy (R–NY), and Ro Khanna (D–CA). The bill was referred to the Committee on Oversight and Accountability. The Committee on Oversight and Accountability held a hearing related to and used for development and consideration of the bill on September 14, 2023. The Committee considered H.R. 7532 at a business meeting on March 7, 2024, and ordered the bill as amended favorably reported by a recorded vote.

COMMITTEE CONSIDERATION

On March 7, 2024, the Committee met in open session and ordered the bill, H.R. 7532, favorably reported with an amendment in the nature of a substitute, by a roll call vote of 36–3, 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 vote occurred during the Committee's consideration of H.R. 7532:

The first and only roll call vote was on final passage of H.R. 7532. The bill was agreed to in a recorded vote of 36–3.

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

118TH CONGRESS

RATIO 26-21

ROLL CALL

Vote on: Final passage - H.R. 7532, the Federal AI Governance and Transparency Act

Date: 3/7/2024   VOTE #: 3

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

Roll Call Totals: Ayes: 36   Nays: 3   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 would make 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 clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, (1) The following hearing was used to develop or consider H.R. 7532:

On September 14, 2023, the Subcommittee on Cybersecurity, Information Technology, and Government Innovation held a hearing titled "How are Federal Agencies Harnessing Artificial Intelligence?" with Dr. Arati Prabhakar, Director, White House Office of Science and Technology Policy; Dr. Craig Martell, Chief Digital and AI Officer, Department of Defense; and Mr. Eric Hysen, Chief Information Officer, Department of Homeland Security.

(2) The following related hearings were held:

On March 8, 2023, the Subcommittee on Cybersecurity, Information Technology, and Government Innovation held a hearing titled "Advances in AI: Are We Ready for a Tech Revolution?" with Dr. Eric Schmidt, Chair, Special Competitive Studies Project; Dr. Aleksander Madry, Director, MIT Center for Deployable Machine Learning, and Cadence Design Systems Professor of Computing, Massachusetts Institute of Technology; Dr. Scott Crowder, Vice President, IBM Quantum, and CTO, IBM Systems, Technical Strategy and Transformation IBM; and Ms. Merve Hickok, Senior Research Director, Center for AI and Digital Policy.

On June 22, 2023, the Subcommittee on Cybersecurity, Information Technology, and Government Innovation held a hearing titled "Using Cutting-Edge Technologies to Keep America Safe" with Mr. Ryan Rawding, Vice President of Business Development, Pangiam; Mr. Wahid Nawabi, Chairman, President, and Chief Executive Officer, AeroVironment; Mr. Gavin Kenneally, Chief Executive Officer, Ghost Robotics; and Dr. Benjamin Boudreaux, Policy Researcher and Professor of Policy Analysis, Pardee RAND Graduate School, RAND Corporation.

On December 6, 2023, the Subcommittee on Cybersecurity, Information Technology, and Government Innovation held a hearing titled "White House Policy on AI" with Mr. Ross Nodurft, Executive Director, Alliance for Digital Innovation; Mr. Samuel Hammond, Senior Economist, Foundation for American Innovation; Ms. Kate Goodloe, Managing Director BSA | The Software Alliance; Dr. Daniel Ho, William Benjamin Scott and Luna M. Scott Professor of Law, Senior Fellow, Stanford Institute for Human-Centered AI, Stanford Law School; and Dr. Rumman Chowdhury, Responsible AI Fellow, Berkman Klein Center for Internet & Society, Harvard University.

On January 17, 2024, the Subcommittee on Cybersecurity, Information Technology, and Government Innovation held a hearing titled "Toward an AI Ready Workforce" with Dr. William Scherlis, Professor of Computer Science, Carnegie Mellon University; Ms. Timi Hadra, Client Partner and Senior Executive for West Vir-

ginia, IBM; Dr. Richard Levin, Former President, Yale University and Senior Advisor, Coursera; and Dr. Costis Toregas, Director, Cyber Security and Privacy Research Institute, The George Washington University.

On March 21, 2024, the Subcommittee on Cybersecurity, Information Technology, and Government Innovation held a hearing titled "White House Overreach on AI" with Ms. Jennifer Huddleston, Technology Policy Research Fellow, Cato Institute; Mr. Adam Thierer, Resident Senior Fellow, Technology & Innovation, R Street Institute; Mr. Neil Chilson, Head of AI Policy The Abundance Institute; and Dr. Nicol Turner Lee, Senior Fellow, Governance Studies and Director, Center for Technology Innovation, Brookings Institution.

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 amend chapter 35 of title 44, United States Code, to establish Federal AI system governance requirements, 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 of the Rules of the House of Representatives, 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.

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 Rules 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)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules 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:

H.R. 7532, Federal A.I. Governance and Transparency Act of 2024
As ordered reported by the House Committee on Oversight and Accountability on March 7, 2024

By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	*	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	*	6	not estimated

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2035?	*	Statutory pay-as-you-go procedures apply? **Yes**
		Mandate Effects
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2035?	*	Contains intergovernmental mandate? **No**
		Contains private-sector mandate? **No**

* = between zero and $500,000.

H.R. 7532 would require federal agencies to develop and publish charters governing the operations, maintenance, and transparency of their artificial intelligence (AI) programs. The bill would codify the responsibilities of the Office of Management and Budget (OMB) in producing government-wide policies for the safe and secure adoption of AI technology. The bill also would require agency inspectors general and the Government Accountability Office to report to the Congress every two years after enactment on the effectiveness of those efforts.

The Administration has issued executive orders and memoranda concerning the creation of federal AI programs. CBO expects those actions will satisfy most of the requirements of the bill. Using information on the costs of similar plans and reports, CBO estimates that satisfying the governance charter and reporting requirements would cost $6 million over the 2024–2029 period. Such spending would be subject to the availability of appropriated funds.

Enacting H.R. 7532 could affect direct spending by some agencies that are allowed to use fees, receipts from the sale of goods, and other collections to cover operating costs. CBO estimates that any net changes in direct spending by those agencies would be negligible because most of them can adjust amounts collected to reflect changes in operating costs.

The costs of the legislation, detailed in Table 1, fall within budget function 800 (general government).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 7532

	By fiscal year, millions of dollars—						
	2024	2025	2026	2027	2028	2029	2024–2029
Estimated Authorization	*	4	*	1	*	1	6
Estimated Outlays	*	4	*	1	*	1	6

* = between zero and $500,000.

The CBO staff contact for this estimate is Aldo Prosperi. The estimate was reviewed by Christina Hawley Anthony, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

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):

TITLE 44, UNITED STATES CODE

PART A—GENERAL

*　　　*　　　*　　　*　　　*　　　*　　　*

CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

SUBCHAPTER I—FEDERAL INFORMATION POLICY

Sec.

*   *   *   *   *   *   *

*   *   *   *   *   *   *

SUBCHAPTER IV—ARTIFICIAL INTELLIGENCE SYSTEM GOVERNANCE

§ 3591. Purposes

The purposes of this subchapter, with respect to the design, development, acquisition, use, management, and oversight of artificial intelligence in the Federal Government, are to ensure the following:

(1) Actions that are consistent with the Constitution and any other applicable law and policy, including those addressing freedom of speech, privacy, civil rights, civil liberties, and an open and transparent Government.

(2) Any such action is purposeful and performance-driven, including ensuring the following:

(A) Such action promotes the consistent and systemic treatment of all individuals in a fair, just, and impartial manner.

(B) The public benefits of such action significantly outweigh the risks.

(C) The risks and operations of such action do not unfairly and disproportionately benefit or harm an individual or subgroup of the public.

(D) The risk of such action is assessed and responsibly managed, including before the use of artificial intelligence.

(3) Any application of artificial intelligence is consistent with the use cases for which the artificial intelligence was trained, and the deployers of such application promote verifiably accurate, ethical, reliable, and effective use.

(4) The safety, security, and resiliency of artificial intelligence applications, including resilience when confronted with any systematic vulnerability, adversarial manipulation, and other malicious exploitation.

(5) The purpose, operations, risks, and outcomes of artificial intelligence applications are sufficiently explainable and understandable, to the extent practicable, by subject matter experts, users, impacted parties, and others, as appropriate.

(6) Such action is responsible and accountable, including by ensuring the following:

(A) Human roles and responsibilities are clearly defined, understood, and appropriately assigned.

(B) Artificial intelligence is used in a manner consistent with the purposes described in this section and the purposes for which each use of artificial intelligence is intended.

(C) Such action, as well as relevant inputs and outputs of artificial intelligence applications, are well documented and accountable.

(7) Responsible management and oversight by ensuring the following:

(A) Artificial intelligence applications are regularly tested against the purposes described in this section.

(B) Mechanisms are maintained to supersede, disengage, or deactivate applications of artificial intelligence that demonstrate performance or outcomes that are inconsistent with the intended use or this subchapter.

(C) Engagement with impacted communities.

(8) Transparency in publicly disclosing relevant information regarding the use of artificial intelligence to appropriate stakeholders, to the extent practicable and in accordance with any applicable law and policy, including with respect to the protection of privacy, civil liberties, and of sensitive law enforcement, national security, trade secrets or proprietary information, and other protected information.

(9) Accountability for the following:

(A) Implementing and enforcing appropriate safeguards necessary to comply with the purposes described in this section and the requirements of this subchapter, for the proper use and functioning of the applications of artificial intelligence.

(B) Monitoring, auditing, and documenting compliance with those safeguards, as appropriate.

(C) Providing appropriate training to all agency personnel responsible for the design, development, acquisition, use, management, and oversight of artificial intelligence.

§ 3592. Definitions

In this subchapter:

(1) IN GENERAL.—Except as provided in paragraph (2), the definitions under sections 3502 shall apply to this subchapter.

(2) ADDITIONAL DEFINITIONS.—In this subchapter:

(A) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(B) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Oversight and Accountability of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

(C) ARTIFICIAL INTELLIGENCE.—The term "artificial intelligence" has the meaning given the term in section 238(g) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. note prec. 4061).

(D) ARTIFICIAL INTELLIGENCE SYSTEM.—The term "artificial intelligence system" means any data system, software, application, tool, or utility that operates in whole or in part

using dynamic or static machine learning algorithms or other forms of artificial intelligence, whether—

(i) the data system, software, application, tool, or utility is established primarily for the purpose of researching, developing, or implementing artificial intelligence technology; or

(ii) artificial intelligence capability is integrated into another system or business process, operational activity, or technology system.

(E) FEDERAL ARTIFICIAL INTELLIGENCE SYSTEM.—The term "Federal artificial intelligence system" means an artificial intelligence system used in connection with a Federal information system.

(F) FEDERAL INFORMATION SYSTEM.—The term "Federal information system" has the meaning given the term in section 11331(g) of title 40.

(G) NATIONAL SECURITY SYSTEM.—The term "national security system" has the meaning given that term in section 3552(b) of title 44.

§ 3593. Authority and functions of the Director

The Director shall oversee the design, development, acquisition, use, management, and oversight of Federal artificial intelligence systems by agencies to implement the purposes described in section 3591. In performing such oversight, the Director shall do the following:

(1) Develop, coordinate, and oversee the implementation of policies, purposes, standards, and guidelines to ensure appropriate use of Federal artificial intelligence systems and the protection of civil rights, civil liberties, and privacy, including in conformity with section 552a of title 5 and other applicable laws, as well as the integrity of Federal information systems and information technology in accordance with the other requirements of this chapter.

(2) Oversee agency compliance with the requirements of this subchapter, including through any authorized enforcement action under section 11303(b)(5) of title 40 to ensure agency accountability and compliance.

(3) Issue and update, as necessary, guidance to agencies to take steps to advance the governance of Federal artificial intelligence systems, manage risk, and remove relevant barriers to innovation, consistent with the requirements of this subchapter and, as appropriate the standards promulgated under section 22A of the National Institute of Standards and Technology Act (15 U.S.C. 278h–1) pursuant to section 5302 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 9441) that addresses the following:

(A) The development of policies regarding Federal acquisition, procurement, and use by agencies regarding artificial intelligence, including an identification of the responsibilities of agency officials managing the use of such technology.

(B) The ownership and protection of data and other information created, used, processed, stored, maintained, disseminated, disclosed, or disposed of by a contractor or sub-

contractor (at any tier) on behalf of the Federal Government.

(C) The protection of training data, algorithms, and other components of any Federal artificial intelligence system against misuse, unauthorized alteration, degradation, or being rendered inoperable.

(D) The removal of barriers to responsible agency use of artificial intelligence, such as information technology, data, workforce, and budgetary barriers, in order to promote the innovative application of those technologies while protecting privacy, civil liberties, civil rights, and economic and national security.

(E) The establishment of best practices for identifying, assessing, and mitigating any discrimination in violation of title VI of the Civil Rights Act of 1964 (42. U.S.C. 2000d et seq.), or any unintended consequence of the use of artificial intelligence, including policies to—

> *(i) identify data used to train artificial intelligence;*

> *(ii) identify data analyzed or ingested by Federal artificial intelligence systems used by the agencies; and*

> *(iii) require periodic evaluation of Federal artificial intelligence systems, as appropriate.*

(4) Issue guidance for agencies to establish a plain language notification process, as necessary and appropriate and in conformity with applicable law, including section 552a of title 5, for individuals or entities impacted by an agency determination that has been based solely on an output from, or substantively and meaningfully informed, augmented, or assisted by a Federal artificial intelligence system, including the contents of any notice, including examples of what the notice may look like in practice.

(5) Issue guidance for agencies to review their appeals process and to make modifications, as necessary and appropriate, to account for determinations made solely by or substantively and meaningfully informed, augmented, or assisted by a Federal artificial intelligence system, including guidance on how an agency provides the impacted individual or entity the opportunity for an alternative review independent of the Federal artificial intelligence system, as appropriate.

(6) Provide guidance and a template for the required contents of the agency plans described in section 3594(6) that uses a uniform resource locator that is in a consistent format across agencies such as the format "agencyname.gov/AI".

(7) Issue guidance, including a uniform required submission format and criteria for updating entries after significant changes, for the establishment of agency AI governance charters under section 3595, including defining high-risk Federal artificial intelligence systems, and publication under section 3596.

§ 3594. Federal agency responsibilities

The head of each agency shall do the following:

(1) Comply with the requirements of this subchapter and related policies, purposes, standards, and guidelines, including those under section 552a of title 5 and in guidance issued by the Director under section 3593.

(2) Ensure that Federal artificial intelligence system management processes are integrated with agency strategic, operational, data, workforce planning, and budgetary planning processes, and other requirements under this chapter.

(3) Ensure that senior agency officials, including the Chief Information Officer, the Chief Data Officer, and the senior agency official for privacy, implement policies and procedures regarding Federal artificial intelligence systems under the control of such officers, assess and reduce any risks to such systems to an acceptable level, and periodically assess and validate management procedures and controls to ensure effective implementation of this subchapter.

(4) Delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the primary authority and accountability to ensure compliance with the agency requirements under this subchapter in coordination with any other appropriate senior agency official designated by the head of the agency.

(5) Ensure that contracts for the acquisition and procurement of a Federal artificial intelligence system are consistent with the requirements of this subchapter and any guidance issued by the Director under section 3593(3).

(6) Maintain a plan, posted on a publicly available and centralized webpage of the agency and prepared in accordance with the template provided by the Director under section 3593(6), to—

   (A) achieve consistency with the requirements of this subchapter and guidance issued by the Director; and

   (B) provide the public information about agency policies and procedures for governing Federal artificial intelligence systems, including the inventory of artificial intelligence use cases required by section 7225(a) of the Advancing American AI Act (subtitle B of title LXXII of Public Law 117–263; 40 U.S.C. 11301 note).

(7) Establish procedures for notifying an individual or entity impacted by an agency determination made solely by an output from, or substantively and meaningfully informed, augmented, or assisted by a Federal artificial intelligence system in accordance with guidance issued by the Director under section 3593(4).

(8) Modify the agency appeals process, as necessary and appropriate, to account for determinations made solely by or substantively and meaningfully informed, augmented, or assisted by a Federal artificial intelligence system, and to provide the impacted individual or entity the opportunity for an alternative review independent of the Federal artificial intelligence system, as appropriate, as established by the Director under section 3593(5).

(9) In accordance with guidance issued by the Director under section 3593(7), oversee the establishment of AI governance charters for Federal artificial intelligence systems, including by—

   (A) establishing a process, led by each official identified in section 3594(4) to ensure that each Federal artificial in-

telligence system has an established AI governance charter that is regularly updated in accordance with the requirements under section 3595 and made publicly available on the webpage under paragraph (6);

(B) submitting each AI governance charter to the Federal Register not later than 30-days after the initial establishment or termination of the charter, in conformity with guidance from the Director; and

(C) submitting each AI governance charter to the Administrator for publication in a format established in the Directors guidance in accordance with section 3596.

(10) In consultation with the Director, the Director of the Office of Personnel Management, and the Administrator of General Services, conduct regular training programs to educate relevant agency program and management officials, including employees supporting the functions of the Chief Information Officer, the Chief Data Officer, the Evaluation Officer, the senior privacy official, and the statistical official, as appropriate, about the management of Federal artificial intelligence systems and compliance with the requirements of this subchapter, which may be integrated with the training requirements and covered topics established by the Artificial Intelligence Training for the Acquisition Workforce Act (Public Law 117–207; 41 U.S.C. 1703 note).

§ 3595. Agency AI Governance Charters

(a) IN GENERAL.—In accordance with the guidance established under section 3593(7), the head of each agency shall ensure that an accurate and complete AI governance charter is established for each Federal artificial intelligence system in use by the agency that is designated as a high-risk Federal artificial intelligence system or was trained on, uses, or produces a record maintained on an individual (as defined under section 552a(a) of title 5).

(b) CONTENTS OF CHARTERS.—An AI governance charter for a Federal artificial intelligence system shall, at a minimum, include the following:

(1) The name and an identifying summary of the Federal artificial intelligence system, including the following:

(A) A descriptive summary of each purpose and relevant use case of the system, as may be documented on the inventory established under section 7225 of the Advancing American AI Act (subtitle B of title LXXII of Public Law 117–263; 40 U.S.C. 11301 note).

(B) The bureau, department, or office using or operating the system, and to the extent practicable, each program designated on the website required under section 1122(a)(2) of title 31 associated with use of the system.

(C) The name and direct contact information for a designated agency official responsible for the overall outputs of the system.

(D) The name and direct contact information for a designated agency official responsible for the ongoing maintenance of the system which may be the same official designated under subparagraph (C).

(2) Information about how the Federal artificial intelligence system was developed and funded, including the following:

(A) Other individuals or entities that have developed, maintained, managed, and operated the system.

(B) Information about any relevant Federal award including any associated contract, grant, cooperative agreement, or other transaction agreement.

(3) Information about the training, validation, and testing of the Federal artificial intelligence system, including the following:

(A) A description of the type of data or data assets used in the training, validation, and testing of the Federal artificial intelligence system or, if such information is not available, a statement describing why such information is not available.

(B) A designation of whether any of the data or data assets used in training, validating, or testing the Federal artificial intelligence system are classified as an open Government data asset or a public data asset or a designated system of record described under paragraph (7).

(C) Information on how to access any open Government data asset or public data asset identified under subparagraph (B).

(D) A listing of audits, testing, or other risk assessments of the Federal artificial intelligence system, including contact information of the individual or entity that conducted such assessments.

(4) Information about ongoing oversight and maintenance of the Federal artificial intelligence system, including a description of the ongoing testing, monitoring, or auditing of the Federal artificial intelligence system, including information about the cadence of testing, as appropriate, and the entity responsible for such testing.

(5) Information about how the system is used by the agency, including—

(A) the date the agency began using the system and the intended life span of use, if appropriate; and

(B) whether any agency determinations have been or are intended to be based solely on an output from, or informed, augmented, or assisted by the Federal artificial intelligence system, and—

(i) a summary of how the Federal artificial intelligence system or the data or data assets produced by the Federal artificial intelligence system is used to inform, augment, or assist in making these determinations;

(ii) information about other agencies or federally funded entities that use or rely on these determinations; and

(iii) a description of any associated notice or modified appeal process as required under section 3593(4) and 3593(5).

(6) Information about data or data assets produced by the Federal artificial intelligence system, including a description of

the data or data assets produced, altered, or augmented by the system, including—

    (A) a designation of whether any of the data or data assets are classified as an open Government data asset or a public data asset or are included in a designated system of record described under paragraph (7);

    (B) information on how to access any such open Government data asset or public data asset identified under subparagraph (A); and

    (C) information about any other agency or federally funded entity known to use or otherwise rely upon the data or data assets identified under this paragraph.

(7) Information on whether the system was trained on, uses, or produces a record maintained on an individual (as defined under section 552a(a) of title 5), including—

    (A) a listing of any designated system of record including a reference to any associated notice in the Federal Register for the establishment or revision of such system of record, as required under section 552a(d) of title 5; or

    (B) a description of any system of record that has been exempted under subsection (j) or (k) of section 552a of title 5, including the statement required under section 553(c) of title 5 that documents the reasons why the system of records is exempted.

(c) REGULAR UPDATES REQUIRED.—The head of each agency shall establish procedures to ensure that each AI governance charter for the agency is updated to capture any significant change to the Federal artificial intelligence system, consistent with guidance established in section 3593(7) and not less than 30 days after such change has been implemented.

(d) REQUIREMENT FOR PUBLICATION.—An AI governance charter required under subsection (a) shall be made public on the agency webpage noticed in the Federal Register, and published on the Federal AI System Inventory established under section 3596, in accordance with procedures established by the agency under section 3594(9) in conformity with guidance issued by the Director under section 3593(7) before a Federal artificial intelligence system is used by an agency, except that—

    (1) the head of an agency may, with advance approval of the Director and notification to the appropriate congressional committees, including the relevant authorizing committee in the House of Representatives and the Senate, and the relevant agency Inspector General, waive the publication requirement under this subsection; or

    (2) in order to protect properly classified national security information, a charter may be submitted to the Director, appropriate congressional committees, including the relevant authorizing committee in the House of Representatives and the Senate, and the relevant agency Inspector General in lieu of the publication requirement of this subsection.

(e) EXEMPTIONS.—A Federal artificial intelligence system is exempt from the requirements of this section if the system is used—

    (1) solely for the purpose of research or development, except that the purposes described and guidance promulgated under this subchapter should inform any such research, development,

testing, or evaluation directed at future applications of Federal artificial intelligence systems; or

(2) in a national security system, in whole or in part, if the agency maintains a complete and regularly updated nonpublic version of each AI governance charter in accordance with subsections (a) and (b) and the guidance required by section 3593(7).

§ 3596. AI Governance Charter Inventory

The Administrator of General Services shall maintain a single, public online interface for centrally cataloging agency AI governance charters which shall be known as the "Federal AI System Inventory". The Administrator and the Director shall—

(1) ensure that each agency, as appropriate, submits AI governance charters for publication on the interface, in a publicly accessible machine-readable and open format to facilitate searchability and bulk download of the inventory; and

(2) provide a clear process and mechanism for each agency to make timely revisions and updates.

§ 3597. Independent evaluation

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this subchapter, and every 2 years thereafter, the Inspector General appointed under chapter 4 of title 5 for each agency shall perform an independent evaluation of the Federal artificial intelligence governance policies and practices of the agency and submit to the head of the agency, the Director, and the appropriate congressional committees, a report which may include a classified annex. The report shall include at a minimum—

(1) an assessment of the comprehensive compliance of the agency with the requirement under section 3595 for each Federal artificial intelligence system in use or maintained by an agency to have an established, and appropriately noticed, AI governance charter, including timely revisions to reflect significant changes and appropriate use of the exemptions described under section 3595(e); and

(2) an assessment of compliance by the agency with artificial intelligence governance policies and practices with the requirements of this subchapter.

(b) COMPTROLLER GENERAL.—The Comptroller General shall periodically evaluate and submit to Congress a report on the—

(1) effectiveness of agency Federal artificial intelligence system governance policies and practices;

(2) implementation of the requirements of this subchapter by the Director, Administrator, and agencies; and

(3) extent to which the requirements of this subchapter and related implementing guidance and policies reflect technology advancements and provide any legislative recommendations as appropriate.

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TITLE 5, UNITED STATES CODE

PART I—THE AGENCIES GENERALLY

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CHAPTER 5—ADMINISTRATIVE PROCEDURE

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SUBCHAPTER II—ADMINISTRATIVE PROCEDURE

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§ 552a. Records maintained on individuals

(a) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means agency as defined in section 552(e) of this title;

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3) the term "maintain" includes maintain, collect, use, or disseminate;

(4) the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(5) the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(6) the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13;

(7) the term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;

(8) the term "matching program"—

(A) means any computerized comparison of—

(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of—

(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

(II) recouping payments or delinquent debts under such Federal benefit programs, or

(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

(B) but does not include—

(i) matches performed to produce aggregate statistical data without any personal identifiers;

(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 404(e), 464, or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

(v) matches—

(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel;

(vi) matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel;

(vii) matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986;

(viii) matches performed pursuant to section 202(x)(3) or 1611(e)(1) of the Social Security Act (42 U.S.C. 402(x)(3), 1382(e)(1));

(ix) matches performed by the Secretary of Health and Human Services or the Inspector General of the

Department of Health and Human Services with respect to potential fraud, waste, and abuse, including matches of a system of records with non-Federal records; or

(x) matches performed pursuant to section 3(d)(4) of the Achieving a Better Life Experience Act of 2014; [1]

(9) the term "recipient agency" means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

(10) the term "non-Federal agency" means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

(11) the term "source agency" means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

(12) the term "Federal benefit program" means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

(13) the term "Federal personnel" means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).

(b) CONDITIONS OF DISCLOSURE.—No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2) required under section 552 of this title;

(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the Government Accountability Office;

(11) pursuant to the order of a court of competent jurisdiction; or

(12) to a consumer reporting agency in accordance with section 3711(e) of title 31.

(c) ACCOUNTING OF CERTAIN DISCLOSURES.—Each agency, with respect to each system of records under its control, shall—

(1) except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of—

(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

(B) the name and address of the person or agency to whom the disclosure is made;

(2) retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3) except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) ACCESS TO RECORDS.—Each agency that maintains a system of records shall—

(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discus-

sion of that individual's record in the accompanying person's presence;

(2) permit the individual to request amendment of a record pertaining to him and—

(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(B) promptly, either—

(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii) inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

(3) permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g)(1)(A) of this section;

(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

(5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(e) AGENCY REQUIREMENTS.—Each agency that maintains a system of records shall—

(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual—

(A) the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B) the principal purpose or purposes for which the information is intended to be used;

(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(D) the effects on him, if any, of not providing all or any part of the requested information;

(4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include—

(A) the name and location of the system;

(B) the categories of individuals on whom records are maintained in the system;

(C) the categories of records maintained in the system;

(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F) the title and business address of the agency official who is responsible for the system of records;

(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; 【and】

(I) the categories of sources of records in the system; *and*

(J) a reference to any agency AI governance charter required under section 3595 of title 44 that is associated with a Federal artificial intelligence system which was trained on, uses, or produces records contained within the system of record;

(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless ex-

pressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(8) make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(9) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(10) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained;

(11) establish appropriate policies and procedures, in accordance with the requirements of subchapter IV of chapter 35 of title 44 to ensure the security, confidentiality, and integrity of records that a Federal artificial intelligence system uses, produces, or modifies;

〔(11)〕 *(12)* at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency; and

〔(12)〕 *(13)* if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.

(f) AGENCY RULES.—In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall—

(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the

request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall biennially compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

(g)(1) CIVIL REMEDIES.—Whenever any agency

(A) makes a determination under subsection (d)(3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

(B) refuses to comply with an individual request under subsection (d)(1) of this section;

(C) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(D) fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual,

the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(3)(A) In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(4) In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that

the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of—

(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of $1,000; and

(B) the costs of the action together with reasonable attorney fees as determined by the court.

(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

(h) RIGHTS OF LEGAL GUARDIANS.—For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(i)(1) CRIMINAL PENALTIES.—Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

(j) GENERAL EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is—

(1) maintained by the Central Intelligence Agency; or

(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the

enforcement of criminal laws, including police efforts to pre-
vent, control, or reduce crime or to apprehend criminals, and
the activities of prosecutors, courts, correctional, probation,
pardon, or parole authorities, and which consists of (A) infor-
mation compiled for the purpose of identifying individual crimi-
nal offenders and alleged offenders and consisting only of iden-
tifying data and notations of arrests, the nature and disposi-
tion of criminal charges, sentencing, confinement, release, and
parole and probation status; (B) information compiled for the
purpose of a criminal investigation, including reports of inform-
ants and investigators, and associated with an identifiable in-
dividual; or (C) reports identifiable to an individual compiled
at any stage of the process of enforcement of the criminal laws
from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency
shall include in the statement required under section 553(c) of this
title, the reasons why the system of records is to be exempted from
a provision of this section.

(k) SPECIFIC EXEMPTIONS.—The head of any agency may promul-
gate rules, in accordance with the requirements (including general
notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to
exempt any system of records within the agency from subsections
(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of this section if the
system of records is—

(1) subject to the provisions of section 552(b)(1) of this title;

(2) investigatory material compiled for law enforcement pur-
poses, other than material within the scope of subsection (j)(2)
of this section: *Provided, however*, That if any individual is de-
nied any right, privilege, or benefit that he would otherwise be
entitled by Federal law, or for which he would otherwise be eli-
gible, as a result of the maintenance of such material, such
material shall be provided to such individual, except to the ex-
tent that the disclosure of such material would reveal the iden-
tity of a source who furnished information to the Government
under an express promise that the identity of the source would
be held in confidence, or, prior to the effective date of this sec-
tion, under an implied promise that the identity of the source
would be held in confidence;

(3) maintained in connection with providing protective serv-
ices to the President of the United States or other individuals
pursuant to section 3056 of title 18;

(4) required by statute to be maintained and used solely as
statistical records;

(5) investigatory material compiled solely for the purpose of
determining suitability, eligibility, or qualifications for Federal
civilian employment, military service, Federal contracts, or ac-
cess to classified information, but only to the extent that the
disclosure of such material would reveal the identity of a
source who furnished information to the Government under an
express promise that the identity of the source would be held
in confidence, or, prior to the effective date of this section,
under an implied promise that the identity of the source would
be held in confidence;

(6) testing or examination material used solely to determine
individual qualifications for appointment or promotion in the

Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(l)(1) ARCHIVAL RECORDS.—Each agency record which is accepted by the Archivist of the United States for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Archivist of the United States shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4)(A) through (G) of this section) shall be published in the Federal Register.

(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e)(4)(A) through (G) and (e)(9) of this section.

(m)(1) GOVERNMENT CONTRACTORS.—When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(2) A consumer reporting agency to which a record is disclosed under section 3711(e) of title 31 shall not be considered a contractor for the purposes of this section.

(n) MAILING LISTS.—An individual's name and address may not be sold or rented by an agency unless such action is specifically au-

thorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

(A) the purpose and legal authority for conducting the program;

(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to—

(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

(ii) applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

(E) procedures for verifying information produced in such matching program as required by subsection (p);

(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

(ii) be available upon request to the public.

(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if—

(i) such program will be conducted without any change; and

(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

(A)(i) the agency has independently verified the information; or

(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

(A) the amount of any asset or income involved;

(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

(C) the period or periods when the individual actually had such asset or income.

(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.

(q) SANCTIONS.—(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (*o*), or both, are not being met by such recipient agency.

(2) No source agency may renew a matching agreement unless—

(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

(B) the source agency has no reason to believe that the certification is inaccurate.

(r) REPORT ON NEW SYSTEMS AND MATCHING PROGRAMS.—Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.

(s) BIENNIAL REPORT.—The President shall biennially submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report—

(1) describing the actions of the Director of the Office of Management and Budget pursuant to section 6 of the Privacy Act of 1974 during the preceding 2 years;

(2) describing the exercise of individual rights of access and amendment under this section during such years;

(3) identifying changes in or additions to systems of records;

(4) containing such other information concerning administration of this section as may be necessary or useful to the Congress in reviewing the effectiveness of this section in carrying out the purposes of the Privacy Act of 1974.

(t)(1) EFFECT OF OTHER LAWS.—No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section.

(2) No agency shall rely on any exemption in this section to withhold from an individual any record which is otherwise accessible to such individual under the provisions of section 552 of this title.

(u) DATA INTEGRITY BOARDS.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

(3) Each Data Integrity Board—

(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (*o*), and all relevant statutes, regulations, and guidelines;

(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including—

(i) matching programs in which the agency has participated as a source agency or recipient agency;

(ii) matching agreements proposed under subsection (*o*) that were disapproved by the Board;

(iii) any changes in membership or structure of the Board in the preceding year;

(iv) the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

(H) may review and report on any agency matching activities that are not matching programs.

(4)(A) Except as provided in subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and

such analysis demonstrates that the program is likely to be cost effective.

(B) The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

(C) A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that—

(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

(ii) there is adequate evidence that the matching agreement will be cost-effective; and

(iii) the matching program is in the public interest.

(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

(6) In the reports required by paragraph (3)(D), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations.

(v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.— The Director of the Office of Management and Budget shall—

(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

(2) provide continuing assistance to and oversight of the implementation of this section by agencies.

(w) APPLICABILITY TO BUREAU OF CONSUMER FINANCIAL PROTECTION.—Except as provided in the Consumer Financial Protection Act of 2010, this section shall apply with respect to the Bureau of Consumer Financial Protection.

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ADVANCING AMERICAN AI ACT

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DIVISION G—HOMELAND SECURITY

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TITLE LXXII—GOVERNMENTAL AFFAIRS

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Subtitle B—Advancing American AI Act

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SEC. 7224. PRINCIPLES AND POLICIES FOR USE OF ARTIFICIAL INTEL-LIGENCE IN GOVERNMENT.

〔(a) GUIDANCE.—The Director shall, when developing the guidance required under section 104(a) of the AI in Government Act of 2020 (title I of division U of Public Law 116-260), consider—

〔(1) the considerations and recommended practices identified by the National Security Commission on Artificial Intelligence in the report entitled "Key Considerations for the Responsible Development and Fielding of AI", as updated in April 2021;

〔(2) the principles articulated in Executive Order 13960 (85 Fed. Reg. 78939; relating to promoting the use of trustworthy artificial intelligence in Government); and

〔(3) the input of—

〔(A) the Administrator of General Services;

〔(B) relevant interagency councils, such as the Federal Privacy Council, the Chief Financial Officers Council, the Chief Information Officers Council, and the Chief Data Officers Council;

〔(C) other governmental and nongovernmental privacy, civil rights, and civil liberties experts;

〔(D) academia;

〔(E) industry technology and data science experts; and

〔(F) any other individual or entity the Director determines to be appropriate.〕

(b) DEPARTMENT POLICIES AND PROCESSES FOR PROCUREMENT AND USE OF ARTIFICIAL INTELLIGENCE-ENABLED SYSTEMS..—Not later than 180 days after the date of enactment of this Act—

(1) the Secretary of Homeland Security, with the participation of the Chief Procurement Officer, the Chief Information Officer, the Chief Privacy Officer, and the Officer for Civil Rights and Civil Liberties of the Department and any other person determined to be relevant by the Secretary of Homeland Security, shall issue policies and procedures for the Department related to—

(A) the acquisition and use of artificial intelligence; and

(B) considerations for the risks and impacts related to artificial intelligence-enabled systems, including associated

data of machine learning systems, to ensure that full consideration is given to—
    (i) the privacy, civil rights, and civil liberties impacts of artificial intelligence-enabled systems; and
    (ii) security against misuse, degradation, or rending inoperable of artificial intelligence-enabled systems; and
  (2) the Chief Privacy Officer and the Officer for Civil Rights and Civil Liberties of the Department shall report to Congress on any additional staffing or funding resources that may be required to carry out the requirements of this subsection.

(c) INSPECTOR GENERAL.—Not later than 180 days after the date of enactment of this Act, the Inspector General of the Department shall identify any training and investments needed to enable employees of the Office of the Inspector General to continually advance their understanding of—
  (1) artificial intelligence systems;
  (2) best practices for governance, oversight, and audits of the use of artificial intelligence systems; and
  (3) how the Office of the Inspector General is using artificial intelligence to enhance audit and investigative capabilities, including actions to—
    (A) ensure the integrity of audit and investigative results; and
    (B) guard against bias in the selection and conduct of audits and investigations.

〚(d) ARTIFICIAL INTELLIGENCE HYGIENE AND PROTECTION OF GOVERNMENT INFORMATION, PRIVACY, CIVIL RIGHTS, AND CIVIL LIBERTIES.—
  〚(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Director, in consultation with a working group consisting of members selected by the Director from appropriate interagency councils, shall develop an initial means by which to—
    〚(A) ensure that contracts for the acquisition of an artificial intelligence system or service—
      〚(i) align with the guidance issued to the head of each agency under section 104(a) of the AI in Government Act of 2020 (title I of division U of Public Law 116-260);
      〚(ii) address protection of privacy, civil rights, and civil liberties;
      〚(iii) address the ownership and security of data and other information created, used, processed, stored, maintained, disseminated, disclosed, or disposed of by a contractor or subcontractor on behalf of the Federal Government; and
      〚(iv) include considerations for securing the training data, algorithms, and other components of any artificial intelligence system against misuse, unauthorized alteration, degradation, or rendering inoperable; and
    〚(B) address any other issue or concern determined to be relevant by the Director to ensure appropriate use and protection of privacy and Government data and other information.

⟦(2) CONSULTATION.—In developing the considerations under paragraph (1)(A)(iv), the Director shall consult with the Secretary of Homeland Security, the Secretary of Energy, the Director of the National Institute of Standards and Technology, and the Director of National Intelligence.

⟦(3) REVIEW.—The Director—

⟦(A) should continuously update the means developed under paragraph (1); and

⟦(B) not later than 2 years after the date of enactment of this Act and not less frequently than every 2 years thereafter, shall update the means developed under paragraph (1).

⟦(4) BRIEFING.—The Director shall brief the appropriate congressional committees—

⟦(A) not later than 90 days after the date of enactment of this Act and thereafter on a quarterly basis until the Director first implements the means developed under paragraph (1); and

⟦(B) annually thereafter on the implementation of this subsection.

⟦(5) SUNSET.—This subsection shall cease to be effective on the date that is 5 years after the date of enactment of this Act.⟧

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AI IN GOVERNMENT ACT OF 2020

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DIVISION U—HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS PROVISIONS

TITLE I—AI IN GOVERNMENT ACT OF 2020

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⟦SEC. 104. GUIDANCE FOR AGENCY USE OF ARTIFICIAL INTELLIGENCE.

⟦(a) GUIDANCE.—Not later than 270 days after the date of enactment of this Act, the Director, in coordination with the Director of the Office of Science and Technology Policy in consultation with the Administrator and any other relevant agencies and key stakeholders as determined by the Director, shall issue a memorandum to the head of each agency that shall—

⟦(1) inform the development of policies regarding Federal acquisition and use by agencies regarding technologies that are empowered or enabled by artificial intelligence, including an identification of the responsibilities of agency officials managing the use of such technology;

⟦(2) recommend approaches to remove barriers for use by agencies of artificial intelligence technologies in order to pro-

mote the innovative application of those technologies while protecting civil liberties, civil rights, and economic and national security;

〔(3) identify best practices for identifying, assessing, and mitigating any discriminatory impact or bias on the basis of any classification protected under Federal nondiscrimination laws, or any unintended consequence of the use of artificial intelligence, including policies to identify data used to train artificial intelligence algorithms as well as the data analyzed by artificial intelligence used by the agencies; and

〔(4) provide a template of the required contents of the agency plans described in subsection (c).

〔(b) PUBLIC COMMENT.—To help ensure public trust in the applications of artificial intelligence technologies, the Director shall issue a draft version of the memorandum required under subsection (a) for public comment not later than 180 days after date of enactment of this Act.

〔(c) PLANS.—Not later than 180 days after the date on which the Director issues the memorandum required under subsection (a) or an update to the memorandum required under subsection (d), the head of each agency shall submit to the Director and post on a publicly available page on the website of the agency—

〔(1) a plan to achieve consistency with the memorandum; or

〔(2) a written determination that the agency does not use and does not anticipate using artificial intelligence.

〔(d) UPDATES.—Not later than 2 years after the date on which the Director issues the memorandum required under subsection (a), and every 2 years thereafter for 10 years, the Director shall issue updates to the memorandum.〕

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