

118TH CONGRESS  
2D SESSION

# H. R. 5527

---

IN THE SENATE OF THE UNITED STATES

MAY 22, 2024

Received; read twice and referred to the Committee on Homeland Security and  
Governmental Affairs

---

## AN ACT

To amend section 1078 of the National Defense Authoriza-  
tion Act for Fiscal Year 2018 to increase the effective-  
ness of the Technology Modernization Fund, and for  
other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Modernizing Govern-  
3 ment Technology Reform Act”.

4 **SEC. 2. REALIGNING USE OF FUNDS WITH ORIGINAL CON-  
5 GRESSIONAL INTENT.**

6 Section 1078 of the National Defense Authorization  
7 Act for Fiscal Year 2018 (Public Law 115–91; 40 U.S.C.  
8 11301 note) is amended—

9 (1) in subsection (b)—

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

12 “(3) USE OF FUNDS.—

13 “(A) IN GENERAL.—The Administrator  
14 shall, in accordance with recommendations from  
15 the Board, use amounts in the Fund for the fol-  
16 lowing:

17 “(i) To transfer such amounts, to re-  
18 main available until expended, to the head  
19 of an agency for the acquisition, procure-  
20 ment, and operation of information tech-  
21 nology, or the development of information  
22 technology when more efficient and cost ef-  
23 fective, to—

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

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

3 “(III) improve long-term effi-  
4 ciency and effectiveness of agency in-  
5 formation technology; or

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

10 “(ii) To provide services or work per-  
11 formed in support of—

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

14 “(II) the Board and the Director  
15 in carrying out the responsibilities de-  
16 scribed in subsection (c)(2).

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

21 “(iv) To transfer such amounts only  
22 for programs, projects, or activities that  
23 will be reimbursed to the Fund to the ex-  
24 tent necessary to ensure total amounts in  
25 the Fund are no less than the amounts

1           needed to keep the Fund operational until  
2           the Fund sunsets pursuant to subsection  
3           (g)(1).

4           “(B) TERMINATION OR SUSPENSION OF  
5           FUNDS.—The Administrator shall, in accord-  
6           ance with recommendations from the Board,  
7           suspend or terminate funding for any project  
8           with respect to which the head of an agency  
9           provided fraudulent or misleading statements  
10          about such project (including fraudulent state-  
11          ments about technical design, the business case,  
12          or program management with respect to the  
13          project) in the application or proposal for  
14          amounts from the Fund for such project.”;

15          (B) in paragraph (5)—

16                  (i) in subparagraph (A)—

17                          (I) in clause (i)—

18                                  (aa) by striking “or (B)”;

19                                  and

20                                  (bb) by striking “(3)(C)”

21                                  and inserting “(3)(A)(ii)”;

22                          (II) in clause (ii), by striking “,

23                                  consistent with any applicable re-

24                                  programming law or guidelines of the

25                                  Committees on Appropriations of the

1 Senate and the House of Representa-  
2 tives”; and

3 (ii) in subparagraph (B)(i)—

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

7 (II) by striking “the solvency of  
8 the Fund, including operating ex-  
9 penses” and inserting the following:  
10 “total amounts in the Fund are no  
11 less than the amounts needed to keep  
12 the Fund operational until the Fund  
13 sunsets pursuant to subsection  
14 (g)(1)”; and

15 (C) in paragraph (6)—

16 (i) in subparagraph (A)—

17 (I) in the matter before clause  
18 (i), by striking “subparagraphs (A)  
19 and (B) of paragraph (3)” and insert-  
20 ing the following: “paragraph  
21 (3)(A)(i) and before any services or  
22 work are provided under paragraph  
23 (3)(A)(ii)(I)”; and

24 (II) in clause (i)—

1 (aa) by striking “unless ap-  
2 proved by the Director”; and

3 (bb) by striking “; and” and  
4 inserting a semicolon;

5 (III) by redesignating clause (ii)  
6 as clause (iv); and

7 (IV) by inserting after clause (i)  
8 the following new clauses:

9 “(ii) which shall include terms of re-  
10 payment that require the head of the agen-  
11 cy to reimburse the Fund for funds trans-  
12 ferred under paragraph (3)(A)(i) at a level  
13 that ensures total amounts in the Fund  
14 are no less than the amounts needed to  
15 keep the Fund operational until the Fund  
16 sunsets pursuant to subsection (g)(1);

17 “(iii) which shall include terms of re-  
18 payment that require the head of the agen-  
19 cy to fully reimburse the Fund for any  
20 services or work provided under paragraph  
21 (3)(A)(ii) in direct support of the project;  
22 and”; and

23 (ii) in subparagraph (B)—

24 (I) by striking clause (i) and in-  
25 serting the following:

1 “(i) for any funds transferred to an  
2 agency under paragraph (3)(A)(i), in the  
3 absence of compelling circumstances docu-  
4 mented by the Administrator at the time of  
5 transfer, that such funds shall be trans-  
6 ferred only—

7 “(I) on an incremental basis, tied  
8 to metric-based development mile-  
9 stones achieved by the agency through  
10 the use of rapid, iterative, develop-  
11 ment processes; and

12 “(II) after the head of the agency  
13 has provided the Director any infor-  
14 mation the Director is required to re-  
15 port pursuant to paragraph (7)(A)(i);  
16 and”;

17 (II) in clause (ii)—

18 (aa) by striking “subpara-  
19 graphs (A) and (B) of paragraph  
20 (3)” and inserting “paragraph  
21 (3)(A)(i)”; and

22 (bb) by striking “paragraph  
23 (6)” and inserting “this para-  
24 graph”;

25 (D) in paragraph (7)—

1 (i) in subparagraph (A)(i)—

2 (I) by inserting “the written  
3 agreement entered into under para-  
4 graph (6),” after “description of the  
5 project,”; and

6 (II) by inserting “(including doc-  
7 umented market research into com-  
8 mercial products and services)” after  
9 “used”;

10 (ii) in subparagraph (B)—

11 (I) in clause (i)—

12 (aa) by striking “estab-  
13 lishing”; and

14 (bb) by striking “the cost  
15 savings associated with the  
16 projects funded both annually  
17 and over the life of the acquired  
18 products and services by the  
19 Fund;” and inserting the fol-  
20 lowing: “the amount repaid to  
21 the Fund in accordance with the  
22 terms established in the written  
23 agreements described in para-  
24 graph (6);”;

25 (II) in clause (ii)—



1 (aa) by striking “reliability  
2 of the cost savings” and inserting  
3 “total cost savings”; and

4 (bb) by striking the semi-  
5 colon and inserting “; and”; and

6 (III) in clause (iii), by striking “;  
7 and” and inserting a period; and

8 (IV) by striking clause (iv);

9 (2) in subsection (c)(2)—

10 (A) in subparagraph (A)—

11 (i) in clause (ii), by striking “the  
12 greatest Governmentwide impact; and” and  
13 inserting the following: “the greatest im-  
14 pact on modernizing, retiring, or replacing  
15 Federal legacy information technology sys-  
16 tems; and”;

17 (ii) by redesignating clauses (i)  
18 through (iii) as clauses (ii) through (iv),  
19 respectively; and

20 (iii) by inserting before clause (ii), as  
21 so redesignated, the following new clause:

22 “(i) the ability for the head of the  
23 agency to ensure repayment of funds  
24 transferred from the Fund to the head of

1 the agency, in accordance with subsection  
2 (b);”;

3 (B) in subparagraph (D), by striking “to  
4 improve or replace multiple information tech-  
5 nology systems” and inserting the following: “to  
6 modernize, retire, or replace legacy information  
7 technology systems under subsection  
8 (b)(3)(A)(i)”;

9 (C) in subparagraph (F), by inserting after  
10 “subsection (b)(6)” the following: “or the iden-  
11 tification of fraudulent or misleading state-  
12 ments about the project (including fraudulent  
13 statements about technical design, the business  
14 case, or program management with respect to  
15 the project) in the application or proposal for  
16 amounts from the Fund for the project”;

17 (D) in subparagraph (G), by inserting  
18 after “operating costs of the Fund” the fol-  
19 lowing: “to ensure total amounts in the Fund  
20 are no less than the amounts needed to keep  
21 the Fund operational until the Fund sunsets  
22 pursuant to subsection (g)(1)”;

23 (3) in subsection (c)—

24 (A) in paragraph (5)—

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

4 (ii) by inserting after subparagraph  
5 (B) the following;

6 “(C) a senior official from the Cybersecu-  
7 rity and Infrastructure Security Agency of the  
8 Department of Homeland Security, appointed  
9 by the Director of the Cybersecurity and Infra-  
10 structure Security Agency, with the approval of  
11 the Director of the Office of Management and  
12 Budget.”;

13 (B) in paragraph (6)(A)—

14 (i) by striking “shall be—” and in-  
15 serting “shall be 4 employees of the Fed-  
16 eral Government primarily having technical  
17 expertise in information technology devel-  
18 opment, financial management, cybersecu-  
19 rity and privacy, and acquisition, ap-  
20 pointed by the Director.”; and

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

23 (4) in subsection (d)(2)—

24 (A) in subparagraph (A), by striking “sub-  
25 section (b)(3)(A) and for products, services, and

1 acquisition vehicles funded under subsection  
2 (b)(3)(B)” and inserting “subsection (b)(3)”;  
3 and

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

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

12 (6) by inserting after subsection (d) the fol-  
13 lowing new subsection:

14 “(e) RESPONSIBILITIES OF THE FEDERAL CHIEF IN-  
15 FORMATION OFFICER; AGENCY CHIEF INFORMATION OF-  
16 FICERS.—

17 “(1) AGENCY INVENTORY.—An agency Chief  
18 Information Officer, in coordination with stake-  
19 holders and other agency officials, shall provide to  
20 the Federal Chief Information Officer—

21 “(A) on or before the first September 30  
22 that occurs after the date of the enactment of  
23 the Modernizing Government Technology Re-  
24 form Act of 2023, a list of high-risk legacy in-  
25 formation technology systems used, operated, or

1 maintained by the agency, in accordance with  
2 the guidance issued under paragraph (4); and

3 “(B) on or before September 30 of each  
4 year after the first year in which the list is pro-  
5 vided under subparagraph (A), any updates to  
6 such list.

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

9 “(A) on or before the first December 30  
10 that occurs after the date of the enactment of  
11 the Modernizing Government Technology Re-  
12 form Act of 2023, compile a Legacy Federal IT  
13 Inventory on the basis of the each list provided  
14 by an agency Chief Information Officers under  
15 paragraph (1)(A) that includes information  
16 about each high-risk legacy information tech-  
17 nology system used, operated, or maintained by  
18 an agency; and

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

25 “(3) PRIORITIZATION LIST.—

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

3                   “(i) not later than 90 days after the  
4 date on which the Federal Chief Informa-  
5 tion Officer receives the list required by  
6 paragraph (1)(A) from each agency Chief  
7 Information Officer, compile, on the basis  
8 of each such list, a list of 10 legacy infor-  
9 mation technology systems that present the  
10 greatest security, privacy, and operational  
11 risks to the Federal Government; and

12                   “(ii) not later than 90 days after the  
13 date on which the Federal Chief Informa-  
14 tion Officer receives updates under para-  
15 graph (1)(B) from each agency Chief In-  
16 formation Officer, update the list required  
17 by subparagraph (A) on the basis of each  
18 updates to the list provided by agency  
19 Chief information Officers under para-  
20 graph (1)(B).

21           “(B) REPORT TO CONGRESS.—Not later  
22 than 14 days after the date on which the Fed-  
23 eral Chief Information Officer compiles the list  
24 required by subparagraph (A), or updates such  
25 list, the Director shall submit to the Committee

1 on Oversight and Accountability of the House  
2 of Representatives, the Committee on Home-  
3 land Security and Governmental Affairs of the  
4 Senate, and the Comptroller General of the  
5 United States, a report (which may include a  
6 classified annex) containing—

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

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

14 “(4) GUIDANCE.—

15 “(A) IN GENERAL.—Not later than 180  
16 days after enactment of this Act, the Director  
17 shall issue guidance on implementing the re-  
18 quirements of this subsection that shall, at a  
19 minimum—

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

23 “(ii) prescribe the information to be  
24 included in the Legacy Federal IT Inven-  
25 tory required by paragraph (2);

1           “(iii) provide guidance on how an  
2           agency Chief Information Officer should  
3           identify high-risk legacy information tech-  
4           nology systems that, at least, requires  
5           agency Chief Information Officers, in co-  
6           ordination with other agency stakeholders,  
7           to identify as a high risk legacy informa-  
8           tion technology system any outdated or ob-  
9           solete system of information technology  
10          that is critical to the agency such that the  
11          loss or degradation of the system would  
12          create a security, operational, or privacy  
13          risk to the agency or would otherwise im-  
14          pact the ability of the agency to perform  
15          the mission of the agency, effectively de-  
16          liver programs, or conduct business; and

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

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

24          “(5) DEFINITIONS.—In this subsection:



1           “(A) AGENCY CHIEF INFORMATION OFFI-  
2           CER.—The term ‘agency Chief Information Of-  
3           ficer’ means a Chief Information Officer des-  
4           ignated under section 3506(a)(2) of title 44,  
5           United States Code.

6           “(B) FEDERAL CHIEF INFORMATION OFFI-  
7           CER.—The term ‘Federal Chief Information Of-  
8           ficer’ means the Administrator of the Office of  
9           Electronic Government.”; and

10           (7) in subsection (g)(1), as so redesignated, by  
11           striking “On and after the date that is 2 years after  
12           the date on which the Comptroller General of the  
13           United States issues the third report required under  
14           subsection (b)(7)(B),” and inserting “After Decem-  
15           ber 31, 2031,”.

Passed the House of Representatives May 21, 2024.

Attest:                           KEVIN F. MCCUMBER,  
*Clerk.*