

117TH CONGRESS
2D SESSION

S. _____

To improve the cybersecurity of the Federal Government, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. PETERS (for himself and Mr. PORTMAN) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To improve the cybersecurity of the Federal Government,
and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Strengthening Amer-
5 ican Cybersecurity Act of 2022”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—FEDERAL INFORMATION SECURITY MODERNIZATION
ACT OF 2022

- Sec. 101. Short title.
- Sec. 102. Definitions.
- Sec. 103. Title 44 amendments.
- Sec. 104. Amendments to subtitle III of title 40.
- Sec. 105. Actions to enhance Federal incident transparency.
- Sec. 106. Additional guidance to agencies on FISMA updates.
- Sec. 107. Agency requirements to notify private sector entities impacted by incidents.
- Sec. 108. Mobile security standards.
- Sec. 109. Data and logging retention for incident response.
- Sec. 110. CISA agency advisors.
- Sec. 111. Federal penetration testing policy.
- Sec. 112. Ongoing threat hunting program.
- Sec. 113. Codifying vulnerability disclosure programs.
- Sec. 114. Implementing zero trust architecture.
- Sec. 115. Automation reports.
- Sec. 116. Extension of Federal acquisition security council and software inventory.
- Sec. 117. Council of the Inspectors General on Integrity and Efficiency dashboard.
- Sec. 118. Quantitative cybersecurity metrics.
- Sec. 119. Establishment of risk-based budget model.
- Sec. 120. Active cyber defensive study.
- Sec. 121. Security operations center as a service pilot.
- Sec. 122. Extension of Chief Data Officer Council.

TITLE II—CYBER INCIDENT REPORTING FOR CRITICAL
INFRASTRUCTURE ACT OF 2022

- Sec. 201. Short title.
- Sec. 202. Definitions.
- Sec. 203. Cyber incident reporting.
- Sec. 204. Federal sharing of incident reports.
- Sec. 205. Ransomware vulnerability warning pilot program.
- Sec. 206. Ransomware threat mitigation activities.
- Sec. 207. Congressional reporting.

TITLE III—FEDERAL SECURE CLOUD IMPROVEMENT AND JOBS
ACT OF 2022

- Sec. 301. Short title.
- Sec. 302. Findings.
- Sec. 303. Title 44 amendments.

1 **TITLE I—FEDERAL INFORMATION**
2 **SECURITY MODERNIZA-**
3 **TION ACT OF 2022**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Federal Information
6 Security Modernization Act of 2022”.

1 **SEC. 102. DEFINITIONS.**

2 In this title, unless otherwise specified:

3 (1) **ADDITIONAL CYBERSECURITY PROCE-**
4 **DURE.**—The term “additional cybersecurity proce-
5 dure” has the meaning given the term in section
6 3552(b) of title 44, United States Code, as amended
7 by this title.

8 (2) **AGENCY.**—The term “agency” has the
9 meaning given the term in section 3502 of title 44,
10 United States Code.

11 (3) **APPROPRIATE CONGRESSIONAL COMMIT-**
12 **TEES.**—The term “appropriate congressional com-
13 mittees” means—

14 (A) the Committee on Homeland Security
15 and Governmental Affairs of the Senate;

16 (B) the Committee on Oversight and Re-
17 form of the House of Representatives; and

18 (C) the Committee on Homeland Security
19 of the House of Representatives.

20 (4) **DIRECTOR.**—The term “Director” means
21 the Director of the Office of Management and Budg-
22 et.

23 (5) **INCIDENT.**—The term “incident” has the
24 meaning given the term in section 3552(b) of title
25 44, United States Code.

1 (6) NATIONAL SECURITY SYSTEM.—The term
2 “national security system” has the meaning given
3 the term in section 3552(b) of title 44, United
4 States Code.

5 (7) PENETRATION TEST.—The term “penetra-
6 tion test” has the meaning given the term in section
7 3552(b) of title 44, United States Code, as amended
8 by this title.

9 (8) THREAT HUNTING.—The term “threat
10 hunting” means proactively and iteratively searching
11 systems for threats that evade detection by auto-
12 mated threat detection systems.

13 **SEC. 103. TITLE 44 AMENDMENTS.**

14 (a) SUBCHAPTER I AMENDMENTS.—Subchapter I of
15 chapter 35 of title 44, United States Code, is amended—

16 (1) in section 3504—

17 (A) in subsection (a)(1)(B)—

18 (i) by striking clause (v) and inserting
19 the following:

20 “(v) confidentiality, privacy, disclosure,
21 and sharing of information;”;

22 (ii) by redesignating clause (vi) as
23 clause (vii); and

24 (iii) by inserting after clause (v) the
25 following:

1 “(vi) in consultation with the National
2 Cyber Director, security of information; and”;
3 and

4 (B) in subsection (g), by striking para-
5 graph (1) and inserting the following:

6 “(1) develop and oversee the implementation of
7 policies, principles, standards, and guidelines on pri-
8 vacy, confidentiality, disclosure, and sharing, and in
9 consultation with the National Cyber Director, over-
10 see the implementation of policies, principles, stand-
11 ards, and guidelines on security, of information col-
12 lected or maintained by or for agencies; and”;

13 (2) in section 3505—

14 (A) by striking the first subsection des-
15 ignated as subsection (c);

16 (B) in paragraph (2) of the second sub-
17 section designated as subsection (c), by insert-
18 ing “an identification of internet accessible in-
19 formation systems and” after “an inventory
20 under this subsection shall include”;

21 (C) in paragraph (3) of the second sub-
22 section designated as subsection (c)—

23 (i) in subparagraph (B)—

24 (I) by inserting “the Director of
25 the Cybersecurity and Infrastructure

1 Security Agency, the National Cyber
2 Director, and” before “the Comp-
3 troller General”; and

4 (II) by striking “and” at the end;

5 (ii) in subparagraph (C)(v), by strik-
6 ing the period at the end and inserting “;
7 and”; and

8 (iii) by adding at the end the fol-
9 lowing:

10 “(D) maintained on a continual basis through
11 the use of automation, machine-readable data, and
12 scanning, wherever practicable.”;

13 (3) in section 3506—

14 (A) in subsection (a)(3), by inserting “In
15 carrying out these duties, the Chief Information
16 Officer shall coordinate, as appropriate, with
17 the Chief Data Officer in accordance with the
18 designated functions under section 3520(e).”
19 after “reduction of information collection bur-
20 dens on the public.”;

21 (B) in subsection (b)(1)(C), by inserting “,
22 availability” after “integrity”; and

23 (C) in subsection (h)(3), by inserting “se-
24 curity,” after “efficiency,”; and

25 (4) in section 3513—

1 (A) by redesignating subsection (c) as sub-
2 section (d); and

3 (B) by inserting after subsection (b) the
4 following:

5 “(c) Each agency providing a written plan under sub-
6 section (b) shall provide any portion of the written plan
7 addressing information security to the Secretary of the
8 Department of Homeland Security and the National Cyber
9 Director.”.

10 (b) SUBCHAPTER II DEFINITIONS.—

11 (1) IN GENERAL.—Section 3552(b) of title 44,
12 United States Code, is amended—

13 (A) by redesignating paragraphs (1), (2),
14 (3), (4), (5), (6), and (7) as paragraphs (2),
15 (4), (5), (6), (7), (9), and (11), respectively;

16 (B) by inserting before paragraph (2), as
17 so redesignated, the following:

18 “(1) The term ‘additional cybersecurity proce-
19 dure’ means a process, procedure, or other activity
20 that is established in excess of the information secu-
21 rity standards promulgated under section 11331(b)
22 of title 40 to increase the security and reduce the cy-
23 bersecurity risk of agency systems.”;

24 (C) by inserting after paragraph (2), as so
25 redesignated, the following:

1 “(3) The term ‘high value asset’ means infor-
2 mation or an information system that the head of an
3 agency, using policies, principles, standards, or
4 guidelines issued by the Director under section
5 3553(a), determines to be so critical to the agency
6 that the loss or corruption of the information or the
7 loss of access to the information system would have
8 a serious impact on the ability of the agency to per-
9 form the mission of the agency or conduct busi-
10 ness.”;

11 (D) by inserting after paragraph (7), as so
12 redesignated, the following:

13 “(8) The term ‘major incident’ has the meaning
14 given the term in guidance issued by the Director
15 under section 3598(a).”;

16 (E) by inserting after paragraph (9), as so
17 redesignated, the following:

18 “(10) The term ‘penetration test’—

19 “(A) means an authorized assessment that
20 emulates attempts to gain unauthorized access
21 to, or disrupt the operations of, an information
22 system or component of an information system;
23 and

24 “(B) includes any additional meaning
25 given the term in policies, principles, standards,

1 or guidelines issued by the Director under sec-
2 tion 3553(a).”; and

3 (F) by inserting after paragraph (11), as
4 so redesignated, the following:

5 “(12) The term ‘shared service’ means a cen-
6 tralized business or mission capability that is pro-
7 vided to multiple organizations within an agency or
8 to multiple agencies.”.

9 (2) CONFORMING AMENDMENTS.—

10 (A) HOMELAND SECURITY ACT OF 2002.—
11 Section 1001(c)(1)(A) of the Homeland Secu-
12 rity Act of 2002 (6 U.S.C. 511(1)(A)) is
13 amended by striking “section 3552(b)(5)” and
14 inserting “section 3552(b)”.

15 (B) TITLE 10.—

16 (i) SECTION 2222.—Section 2222(i)(8)
17 of title 10, United States Code, is amended
18 by striking “section 3552(b)(6)(A)” and
19 inserting “section 3552(b)(9)(A)”.

20 (ii) SECTION 2223.—Section
21 2223(c)(3) of title 10, United States Code,
22 is amended by striking “section
23 3552(b)(6)” and inserting “section
24 3552(b)”.

1 (iii) SECTION 2315.—Section 2315 of
2 title 10, United States Code, is amended
3 by striking “section 3552(b)(6)” and in-
4 serting “section 3552(b)”.

5 (iv) SECTION 2339A.—Section
6 2339a(e)(5) of title 10, United States
7 Code, is amended by striking “section
8 3552(b)(6)” and inserting “section
9 3552(b)”.

10 (C) HIGH-PERFORMANCE COMPUTING ACT
11 OF 1991.—Section 207(a) of the High-Perform-
12 ance Computing Act of 1991 (15 U.S.C.
13 5527(a)) is amended by striking “section
14 3552(b)(6)(A)(i)” and inserting “section
15 3552(b)(9)(A)(i)”.

16 (D) INTERNET OF THINGS CYBERSECURITY
17 IMPROVEMENT ACT OF 2020.—Section 3(5)
18 of the Internet of Things Cybersecurity Im-
19 provement Act of 2020 (15 U.S.C. 278g–3a) is
20 amended by striking “section 3552(b)(6)” and
21 inserting “section 3552(b)”.

22 (E) NATIONAL DEFENSE AUTHORIZATION
23 ACT FOR FISCAL YEAR 2013.—Section
24 933(e)(1)(B) of the National Defense Author-
25 ization Act for Fiscal Year 2013 (10 U.S.C.

1 2224 note) is amended by striking “section
2 3542(b)(2)” and inserting “section 3552(b)”.

3 (F) IKE SKELTON NATIONAL DEFENSE AU-
4 THORIZATION ACT FOR FISCAL YEAR 2011.—The
5 Ike Skelton National Defense Authorization Act
6 for Fiscal Year 2011 (Public Law 111–383) is
7 amended—

8 (i) in section 806(e)(5) (10 U.S.C.
9 2304 note), by striking “section 3542(b)”
10 and inserting “section 3552(b)”;

11 (ii) in section 931(b)(3) (10 U.S.C.
12 2223 note), by striking “section
13 3542(b)(2)” and inserting “section
14 3552(b)”;

15 (iii) in section 932(b)(2) (10 U.S.C.
16 2224 note), by striking “section
17 3542(b)(2)” and inserting “section
18 3552(b)”.

19 (G) E-GOVERNMENT ACT OF 2002.—Sec-
20 tion 301(c)(1)(A) of the E-Government Act of
21 2002 (44 U.S.C. 3501 note) is amended by
22 striking “section 3542(b)(2)” and inserting
23 “section 3552(b)”.

24 (H) NATIONAL INSTITUTE OF STANDARDS
25 AND TECHNOLOGY ACT.—Section 20 of the Na-

1 “(7) recognize that each agency has specific
2 mission requirements and, at times, unique cyberse-
3 curity requirements to meet the mission of the agen-
4 cy;

5 “(8) recognize that each agency does not have
6 the same resources to secure agency systems, and an
7 agency should not be expected to have the capability
8 to secure the systems of the agency from advanced
9 adversaries alone; and

10 “(9) recognize that a holistic Federal cybersecu-
11 rity model is necessary to account for differences be-
12 tween the missions and capabilities of agencies.”;

13 (2) in section 3553—

14 (A) in subsection (a)—

15 (i) in paragraph (1), by inserting “, in
16 consultation with the Secretary and the
17 National Cyber Director,” before “over-
18 seeing”;

19 (ii) in paragraph (5), by striking
20 “and” at the end; and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(8) promoting, in consultation with the Direc-
24 tor of the Cybersecurity and Infrastructure Security
25 Agency, the National Cyber Director, and the Direc-

1 tor of the National Institute of Standards and Tech-
2 nology—

3 “(A) the use of automation to improve
4 Federal cybersecurity and visibility with respect
5 to the implementation of Federal cybersecurity;
6 and

7 “(B) the use of presumption of com-
8 promise and least privilege principles to improve
9 resiliency and timely response actions to inci-
10 dents on Federal systems.”;

11 (B) in subsection (b)—

12 (i) in the matter preceding paragraph
13 (1), by inserting “and the National Cyber
14 Director” after “Director”; and

15 (ii) in paragraph (2)(A), by inserting
16 “and reporting requirements under sub-
17 chapter IV of this chapter” after “section
18 3556”; and

19 (C) in subsection (c)—

20 (i) in the matter preceding paragraph
21 (1)—

22 (I) by striking “each year” and
23 inserting “each year during which
24 agencies are required to submit re-
25 ports under section 3554(c)”; and

1 (II) by striking “preceding year”

2 and inserting “preceding 2 years”;

3 (ii) by striking paragraph (1);

4 (iii) by redesignating paragraphs (2),

5 (3), and (4) as paragraphs (1), (2), and

6 (3), respectively;

7 (iv) in paragraph (3), as so redesign-

8 nated, by striking “and” at the end;

9 (v) by inserting after paragraph (3),

10 as so redesignated the following:

11 “(4) a summary of each assessment of Federal
12 risk posture performed under subsection (i);” and

13 (vi) in paragraph (5), by striking the
14 period at the end and inserting “; and”;

15 (D) by redesignating subsections (i), (j),
16 (k), and (l) as subsections (j), (k), (l), and (m)
17 respectively;

18 (E) by inserting after subsection (h) the
19 following:

20 “(i) FEDERAL RISK ASSESSMENTS.—On an ongoing
21 and continuous basis, the Director of the Cybersecurity
22 and Infrastructure Security Agency shall perform assess-
23 ments of Federal risk posture using any available informa-
24 tion on the cybersecurity posture of agencies, and brief

1 the Director and National Cyber Director on the findings
2 of those assessments including—

3 “(1) the status of agency cybersecurity remedial
4 actions described in section 3554(b)(7);

5 “(2) any vulnerability information relating to
6 the systems of an agency that is known by the agen-
7 cy;

8 “(3) analysis of incident information under sec-
9 tion 3597;

10 “(4) evaluation of penetration testing per-
11 formed under section 3559A;

12 “(5) evaluation of vulnerability disclosure pro-
13 gram information under section 3559B;

14 “(6) evaluation of agency threat hunting re-
15 sults;

16 “(7) evaluation of Federal and non-Federal
17 cyber threat intelligence;

18 “(8) data on agency compliance with standards
19 issued under section 11331 of title 40;

20 “(9) agency system risk assessments performed
21 under section 3554(a)(1)(A); and

22 “(10) any other information the Director of the
23 Cybersecurity and Infrastructure Security Agency
24 determines relevant.”;

25 (F) in subsection (j), as so redesignated—

1 (i) by striking “regarding the spe-
2 cific” and inserting “that includes a sum-
3 mary of—

4 “(1) the specific”;

5 (ii) in paragraph (1), as so des-
6 ignated, by striking the period at the end
7 and inserting “; and” and

8 (iii) by adding at the end the fol-
9 lowing:

10 “(2) the trends identified in the Federal risk
11 assessment performed under subsection (i).”; and

12 (G) by adding at the end the following:

13 “(n) BINDING OPERATIONAL DIRECTIVES.—If the
14 Director of the Cybersecurity and Infrastructure Security
15 Agency issues a binding operational directive or an emer-
16 gency directive under this section, not later than 4 days
17 after the date on which the binding operational directive
18 requires an agency to take an action, the Director of the
19 Cybersecurity and Infrastructure Security Agency shall
20 provide to the Director, National Cyber Director, the
21 Committee on Homeland Security and Governmental Af-
22 fairs of the Senate and the Committee on Oversight and
23 Reform of the House of Representatives the status of the
24 implementation of the binding operational directive at the
25 agency.”;

1 (3) in section 3554—

2 (A) in subsection (a)—

3 (i) in paragraph (1)—

4 (I) by redesignating subpara-
5 graphs (A), (B), and (C) as subpara-
6 graphs (B), (C), and (D), respectively;

7 (II) by inserting before subpara-
8 graph (B), as so redesignated, the fol-
9 lowing:

10 “(A) on an ongoing and continuous basis,
11 performing agency system risk assessments
12 that—

13 “(i) identify and document the high
14 value assets of the agency using guidance
15 from the Director;

16 “(ii) evaluate the data assets inven-
17 toried under section 3511 for sensitivity to
18 compromises in confidentiality, integrity,
19 and availability;

20 “(iii) identify agency systems that
21 have access to or hold the data assets
22 inventoried under section 3511;

23 “(iv) evaluate the threats facing agen-
24 cy systems and data, including high value
25 assets, based on Federal and non-Federal

1 cyber threat intelligence products, where
2 available;

3 “(v) evaluate the vulnerability of
4 agency systems and data, including high
5 value assets, including by analyzing—

6 “(I) the results of penetration
7 testing performed by the Department
8 of Homeland Security under section
9 3553(b)(9);

10 “(II) the results of penetration
11 testing performed under section
12 3559A;

13 “(III) information provided to
14 the agency through the vulnerability
15 disclosure program of the agency
16 under section 3559B;

17 “(IV) incidents; and

18 “(V) any other vulnerability in-
19 formation relating to agency systems
20 that is known to the agency;

21 “(vi) assess the impacts of potential
22 agency incidents to agency systems, data,
23 and operations based on the evaluations
24 described in clauses (ii) and (iv) and the

1 agency systems identified under clause
2 (iii); and

3 “(vii) assess the consequences of po-
4 tential incidents occurring on agency sys-
5 tems that would impact systems at other
6 agencies, including due to interconnectivity
7 between different agency systems or oper-
8 ational reliance on the operations of the
9 system or data in the system;”;

10 (III) in subparagraph (B), as so
11 redesignated, in the matter preceding
12 clause (i), by striking “providing in-
13 formation” and inserting “using infor-
14 mation from the assessment con-
15 ducted under subparagraph (A), pro-
16 viding information”;

17 (IV) in subparagraph (C), as so
18 redesignated—

19 (aa) in clause (ii) by insert-
20 ing “binding” before “oper-
21 ational”; and

22 (bb) in clause (vi), by strik-
23 ing “and” at the end; and

24 (V) by adding at the end the fol-
25 lowing:

1 “(E) providing an update on the ongoing
2 and continuous assessment performed under
3 subparagraph (A)—

4 “(i) upon request, to the inspector
5 general of the agency or the Comptroller
6 General of the United States; and

7 “(ii) on a periodic basis, as deter-
8 mined by guidance issued by the Director
9 but not less frequently than annually, to—

10 “(I) the Director;

11 “(II) the Director of the Cyberse-
12 curity and Infrastructure Security
13 Agency; and

14 “(III) the National Cyber Direc-
15 tor;

16 “(F) in consultation with the Director of
17 the Cybersecurity and Infrastructure Security
18 Agency and not less frequently than once every
19 3 years, performing an evaluation of whether
20 additional cybersecurity procedures are appro-
21 priate for securing a system of, or under the
22 supervision of, the agency, which shall—

23 “(i) be completed considering the
24 agency system risk assessment performed
25 under subparagraph (A); and

1 “(ii) include a specific evaluation for
2 high value assets;

3 “(G) not later than 30 days after com-
4 pleting the evaluation performed under sub-
5 paragraph (F), providing the evaluation and an
6 implementation plan, if applicable, for using ad-
7 ditional cybersecurity procedures determined to
8 be appropriate to—

9 “(i) the Director of the Cybersecurity
10 and Infrastructure Security Agency;

11 “(ii) the Director; and

12 “(iii) the National Cyber Director;

13 and

14 “(H) if the head of the agency determines
15 there is need for additional cybersecurity proce-
16 dures, ensuring that those additional cybersecu-
17 rity procedures are reflected in the budget re-
18 quest of the agency;”;

19 (ii) in paragraph (2)—

20 (I) in subparagraph (A), by in-
21 serting “in accordance with the agen-
22 cy system risk assessment performed
23 under paragraph (1)(A)” after “infor-
24 mation systems”;

25 (II) in subparagraph (B)—

1 (aa) by striking “in accord-
2 ance with standards” and insert-
3 ing “in accordance with—

4 “(i) standards”; and

5 (bb) by adding at the end
6 the following:

7 “(ii) the evaluation performed under
8 paragraph (1)(F); and

9 “(iii) the implementation plan de-
10 scribed in paragraph (1)(G);”; and

11 (III) in subparagraph (D), by in-
12 sserting “, through the use of penetra-
13 tion testing, the vulnerability disclo-
14 sure program established under sec-
15 tion 3559B, and other means,” after
16 “periodically”;

17 (iii) in paragraph (3)—

18 (I) in subparagraph (A)—

19 (aa) in clause (iii), by strik-
20 ing “and” at the end;

21 (bb) in clause (iv), by add-
22 ing “and” at the end; and

23 (cc) by adding at the end
24 the following:

25 “(v) ensure that—

1 “(I) senior agency information
2 security officers of component agen-
3 cies carry out responsibilities under
4 this subchapter, as directed by the
5 senior agency information security of-
6 ficer of the agency or an equivalent
7 official; and

8 “(II) senior agency information
9 security officers of component agen-
10 cies report to—

11 “(aa) the senior information
12 security officer of the agency or
13 an equivalent official; and

14 “(bb) the Chief Information
15 Officer of the component agency
16 or an equivalent official;” and

17 (iv) in paragraph (5), by inserting
18 “and the Director of the Cybersecurity and
19 Infrastructure Security Agency” before
20 “on the effectiveness”;

21 (B) in subsection (b)—

22 (i) by striking paragraph (1) and in-
23 serting the following:

24 “(1) pursuant to subsection (a)(1)(A), per-
25 forming ongoing and continuous agency system risk

1 assessments, which may include using guidelines and
2 automated tools consistent with standards and
3 guidelines promulgated under section 11331 of title
4 40, as applicable;”;

5 (ii) in paragraph (2)—

6 (I) by striking subparagraph (B)
7 and inserting the following:

8 “(B) comply with the risk-based cyber
9 budget model developed pursuant to section
10 3553(a)(7);” and

11 (II) in subparagraph (D)—

12 (aa) by redesignating
13 clauses (iii) and (iv) as clauses
14 (iv) and (v), respectively;

15 (bb) by inserting after
16 clause (ii) the following:

17 “(iii) binding operational directives
18 and emergency directives promulgated by
19 the Director of the Cybersecurity and In-
20 frastructure Security Agency under section
21 3553;” and

22 (cc) in clause (iv), as so re-
23 designated, by striking “as deter-
24 mined by the agency; and” and

1 inserting “as determined by the
2 agency, considering—

3 “(I) the agency risk assessment
4 performed under subsection (a)(1)(A);
5 and

6 “(II) the determinations of ap-
7 plying more stringent standards and
8 additional cybersecurity procedures
9 pursuant to section 11331(c)(1) of
10 title 40; and”;

11 (iii) in paragraph (5)(A), by inserting
12 “, including penetration testing, as appro-
13 priate,” after “shall include testing”;

14 (iv) in paragraph (6), by striking
15 “planning, implementing, evaluating, and
16 documenting” and inserting “planning and
17 implementing and, in consultation with the
18 Director of the Cybersecurity and Infra-
19 structure Security Agency, evaluating and
20 documenting”;

21 (v) by redesignating paragraphs (7)
22 and (8) as paragraphs (8) and (9), respec-
23 tively;

24 (vi) by inserting after paragraph (6)
25 the following:

1 “(7) a process for providing the status of every
2 remedial action and unremediated identified system
3 vulnerability to the Director and the Director of the
4 Cybersecurity and Infrastructure Security Agency,
5 using automation and machine-readable data to the
6 greatest extent practicable;” and

7 (vii) in paragraph (8)(C), as so redesi-
8 gnated—

9 (I) by striking clause (ii) and in-
10 sserting the following:

11 “(ii) notifying and consulting with the
12 Federal information security incident cen-
13 ter established under section 3556 pursu-
14 ant to the requirements of section 3594;”;

15 (II) by redesignating clause (iii)
16 as clause (iv);

17 (III) by inserting after clause (ii)
18 the following:

19 “(iii) performing the notifications and
20 other activities required under subchapter
21 IV of this chapter; and”;

22 (IV) in clause (iv), as so redesi-
23 gnated—

1 (aa) in subclause (I), by
2 striking “and relevant offices of
3 inspectors general”;

4 (bb) in subclause (II), by
5 adding “and” at the end;

6 (cc) by striking subclause
7 (III); and

8 (dd) by redesignating sub-
9 clause (IV) as subclause (III);

10 (C) in subsection (c)—

11 (i) by redesignating paragraph (2) as
12 paragraph (5);

13 (ii) by striking paragraph (1) and in-
14 serting the following:

15 “(1) BIENNIAL REPORT.—Not later than 2
16 years after the date of enactment of the Federal In-
17 formation Security Modernization Act of 2022 and
18 not less frequently than once every 2 years there-
19 after, using the continuous and ongoing agency sys-
20 tem risk assessment under subsection (a)(1)(A), the
21 head of each agency shall submit to the Director,
22 the Director of the Cybersecurity and Infrastructure
23 Security Agency, the majority and minority leaders
24 of the Senate, the Speaker and minority leader of
25 the House of Representatives, the Committee on

1 Homeland Security and Governmental Affairs of the
2 Senate, the Committee on Oversight and Reform of
3 the House of Representatives, the Committee on
4 Homeland Security of the House of Representatives,
5 the Committee on Commerce, Science, and Trans-
6 portation of the Senate, the Committee on Science,
7 Space, and Technology of the House of Representa-
8 tives, the appropriate authorization and appropria-
9 tions committees of Congress, the National Cyber
10 Director, and the Comptroller General of the United
11 States a report that—

12 “(A) summarizes the agency system risk
13 assessment performed under subsection
14 (a)(1)(A);

15 “(B) evaluates the adequacy and effective-
16 ness of information security policies, proce-
17 dures, and practices of the agency to address
18 the risks identified in the agency system risk
19 assessment performed under subsection
20 (a)(1)(A), including an analysis of the agency’s
21 cybersecurity and incident response capabilities
22 using the metrics established under section
23 224(c) of the Cybersecurity Act of 2015 (6
24 U.S.C. 1522(c));

1 “(C) summarizes the evaluation and imple-
2 mentation plans described in subparagraphs (F)
3 and (G) of subsection (a)(1) and whether those
4 evaluation and implementation plans call for
5 the use of additional cybersecurity procedures
6 determined to be appropriate by the agency;
7 and

8 “(D) summarizes the status of remedial
9 actions identified by inspector general of the
10 agency, the Comptroller General of the United
11 States, and any other source determined appro-
12 priate by the head of the agency.

13 “(2) UNCLASSIFIED REPORTS.—Each report
14 submitted under paragraph (1)—

15 “(A) shall be, to the greatest extent prac-
16 ticable, in an unclassified and otherwise uncon-
17 trolled form; and

18 “(B) may include a classified annex.

19 “(3) ACCESS TO INFORMATION.—The head of
20 an agency shall ensure that, to the greatest extent
21 practicable, information is included in the unclassi-
22 fied form of the report submitted by the agency
23 under paragraph (2)(A).

24 “(4) BRIEFINGS.—During each year during
25 which a report is not required to be submitted under

1 paragraph (1), the Director shall provide to the con-
2 gressional committees described in paragraph (1) a
3 briefing summarizing current agency and Federal
4 risk postures.”; and

5 (iii) in paragraph (5), as so redesign-
6 nated, by striking the period at the end
7 and inserting “, including the reporting
8 procedures established under section
9 11315(d) of title 40 and subsection
10 (a)(3)(A)(v) of this section”; and

11 (D) in subsection (d)(1), in the matter pre-
12 ceding subparagraph (A), by inserting “and the
13 National Cyber Director” after “the Director”;
14 and

15 (E) by adding at the end the following:

16 “(f) REPORTING STRUCTURE EXEMPTION.—

17 “(1) IN GENERAL.—On an annual basis, the
18 Director may exempt an agency from the reporting
19 structure requirement under subsection
20 (a)(3)(A)(v)(II).

21 “(2) REPORT.—On an annual basis, the Direc-
22 tor shall submit a report to the Committee on
23 Homeland Security and Governmental Affairs of the
24 Senate and the Committee on Oversight and Reform
25 of the House of Representatives that includes a list

1 of each exemption granted under paragraph (1) and
2 the associated rationale for each exemption.

3 “(3) COMPONENT OF OTHER REPORT.—The re-
4 port required under paragraph (2) may be incor-
5 porated into any other annual report required under
6 this chapter.”;

7 (4) in section 3555—

8 (A) in the section heading, by striking
9 “**ANNUAL INDEPENDENT**” and inserting
10 “**INDEPENDENT**”;

11 (B) in subsection (a)—

12 (i) in paragraph (1), by inserting
13 “during which a report is required to be
14 submitted under section 3553(c),” after
15 “Each year”;

16 (ii) in paragraph (2)(A), by inserting
17 “, including by penetration testing and
18 analyzing the vulnerability disclosure pro-
19 gram of the agency” after “information
20 systems”; and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(3) An evaluation under this section may include
24 recommendations for improving the cybersecurity posture
25 of the agency.”;

1 (C) in subsection (b)(1), by striking “an-
2 nual”;

3 (D) in subsection (e)(1), by inserting “dur-
4 ing which a report is required to be submitted
5 under section 3553(c)” after “Each year”;

6 (E) by striking subsection (f) and inserting
7 the following:

8 “(f) PROTECTION OF INFORMATION.—(1) Agencies,
9 evaluators, and other recipients of information that, if dis-
10 closed, may cause grave harm to the efforts of Federal
11 information security officers, shall take appropriate steps
12 to ensure the protection of that information, including
13 safeguarding the information from public disclosure.

14 “(2) The protections required under paragraph (1)
15 shall be commensurate with the risk and comply with all
16 applicable laws and regulations.

17 “(3) With respect to information that is not related
18 to national security systems, agencies and evaluators shall
19 make a summary of the information unclassified and pub-
20 licly available, including information that does not iden-
21 tify—

22 “(A) specific information system incidents; or

23 “(B) specific information system
24 vulnerabilities.”;

25 (F) in subsection (g)(2)—

1 (i) by striking “this subsection shall”

2 and inserting “this subsection—

3 “(A) shall”;

4 (ii) in subparagraph (A), as so des-

5 ignated, by striking the period at the end

6 and inserting “; and”; and

7 (iii) by adding at the end the fol-

8 lowing:

9 “(B) identify any entity that performs an inde-
10 pendent evaluation under subsection (b).”; and

11 (G) by striking subsection (j) and inserting
12 the following:

13 “(j) GUIDANCE.—

14 “(1) IN GENERAL.—The Director, in consulta-
15 tion with the Director of the Cybersecurity and In-
16 frastructure Security Agency, the Chief Information
17 Officers Council, the Council of the Inspectors Gen-
18 eral on Integrity and Efficiency, and other interested
19 parties as appropriate, shall ensure the development
20 of risk-based guidance for evaluating the effective-
21 ness of an information security program and prac-
22 tices

23 “(2) PRIORITIES.—The risk-based guidance de-
24 veloped under paragraph (1) shall include—

35

1 “(A) the identification of the most common
2 successful threat patterns experienced by each
3 agency;

4 “(B) the identification of security controls
5 that address the threat patterns described in
6 subparagraph (A);

7 “(C) any other security risks unique to the
8 networks of each agency; and

9 “(D) any other element the Director, in
10 consultation with the Director of the Cybersecu-
11 rity and Infrastructure Security Agency and the
12 Council of the Inspectors General on Integrity
13 and Efficiency, determines appropriate.”; and
14 (5) in section 3556(a)—

15 (A) in the matter preceding paragraph (1),
16 by inserting “within the Cybersecurity and In-
17 frastructure Security Agency” after “incident
18 center”; and

19 (B) in paragraph (4), by striking
20 “3554(b)” and inserting “3554(a)(1)(A)”.

21 (d) CONFORMING AMENDMENTS.—

22 (1) TABLE OF SECTIONS.—The table of sections
23 for chapter 35 of title 44, United States Code, is
24 amended by striking the item relating to section
25 3555 and inserting the following:

“3555. Independent evaluation”.

1 (2) OMB REPORTS.—Section 226(c) of the Cy-
2 bersecurity Act of 2015 (6 U.S.C. 1524(c)) is
3 amended—

4 (A) in paragraph (1)(B), in the matter
5 preceding clause (i), by striking “annually
6 thereafter” and inserting “thereafter during the
7 years during which a report is required to be
8 submitted under section 3553(c) of title 44,
9 United States Code”; and

10 (B) in paragraph (2)(B), in the matter
11 preceding clause (i)—

12 (i) by striking “annually thereafter”
13 and inserting “thereafter during the years
14 during which a report is required to be
15 submitted under section 3553(c) of title
16 44, United States Code”; and

17 (ii) by striking “the report required
18 under section 3553(c) of title 44, United
19 States Code” and inserting “that report”.

20 (3) NIST RESPONSIBILITIES.—Section
21 20(d)(3)(B) of the National Institute of Standards
22 and Technology Act (15 U.S.C. 278g–3(d)(3)(B)) is
23 amended by striking “annual”.

24 (e) FEDERAL SYSTEM INCIDENT RESPONSE.—

1 “(G) the Director;

2 “(H) the Director of the Cybersecurity and
3 Infrastructure Security Agency;

4 “(I) the National Cyber Director;

5 “(J) the Comptroller General of the United
6 States; and

7 “(K) the inspector general of any impacted
8 agency.

9 “(2) AWARDEE.—The term ‘awardee’—

10 “(A) means a person, business, or other
11 entity that receives a grant from, or is a party
12 to a cooperative agreement or an other trans-
13 action agreement with, an agency; and

14 “(B) includes any subgrantee of a person,
15 business, or other entity described in subpara-
16 graph (A).

17 “(3) BREACH.—The term ‘breach’—

18 “(A) means the loss, control, compromise,
19 unauthorized disclosure, or unauthorized acqui-
20 sition of personally identifiable information or
21 any similar occurrence; and

22 “(B) includes any additional meaning
23 given the term in policies, principles, standards,
24 or guidelines issued by the Director under sec-
25 tion 3553(a).

1 “(4) CONTRACTOR.—The term ‘contractor’
2 means a prime contractor of an agency or a subcon-
3 tractor of a prime contractor of an agency.

4 “(5) FEDERAL INFORMATION.—The term ‘Fed-
5 eral information’ means information created, col-
6 lected, processed, maintained, disseminated, dis-
7 closed, or disposed of by or for the Federal Govern-
8 ment in any medium or form.

9 “(6) FEDERAL INFORMATION SYSTEM.—The
10 term ‘Federal information system’ means an infor-
11 mation system used or operated by an agency, a con-
12 tractor, an awardee, or another organization on be-
13 half of an agency.

14 “(7) INTELLIGENCE COMMUNITY.—The term
15 ‘intelligence community’ has the meaning given the
16 term in section 3 of the National Security Act of
17 1947 (50 U.S.C. 3003).

18 “(8) NATIONWIDE CONSUMER REPORTING
19 AGENCY.—The term ‘nationwide consumer reporting
20 agency’ means a consumer reporting agency de-
21 scribed in section 603(p) of the Fair Credit Report-
22 ing Act (15 U.S.C. 1681a(p)).

23 “(9) VULNERABILITY DISCLOSURE.—The term
24 ‘vulnerability disclosure’ means a vulnerability iden-
25 tified under section 3559B.

1 **“§ 3592. Notification of breach**

2 “(a) NOTIFICATION.—As expeditiously as practicable
3 and without unreasonable delay, and in any case not later
4 than 45 days after an agency has a reasonable basis to
5 conclude that a breach has occurred, the head of the agen-
6 cy, in consultation with a senior privacy officer of the
7 agency, shall—

8 “(1) determine whether notice to any individual
9 potentially affected by the breach is appropriate
10 based on an assessment of the risk of harm to the
11 individual that considers—

12 “(A) the nature and sensitivity of the per-
13 sonally identifiable information affected by the
14 breach;

15 “(B) the likelihood of access to and use of
16 the personally identifiable information affected
17 by the breach;

18 “(C) the type of breach; and

19 “(D) any other factors determined by the
20 Director; and

21 “(2) as appropriate, provide written notice in
22 accordance with subsection (b) to each individual po-
23 tentially affected by the breach—

24 “(A) to the last known mailing address of
25 the individual; or

1 “(B) through an appropriate alternative
2 method of notification that the head of the
3 agency or a designated senior-level individual of
4 the agency selects based on factors determined
5 by the Director.

6 “(b) CONTENTS OF NOTICE.—Each notice of a
7 breach provided to an individual under subsection (a)(2)
8 shall include—

9 “(1) a brief description of the breach;

10 “(2) if possible, a description of the types of
11 personally identifiable information affected by the
12 breach;

13 “(3) contact information of the agency that
14 may be used to ask questions of the agency, which—

15 “(A) shall include an e-mail address or an-
16 other digital contact mechanism; and

17 “(B) may include a telephone number,
18 mailing address, or a website;

19 “(4) information on any remedy being offered
20 by the agency;

21 “(5) any applicable educational materials relat-
22 ing to what individuals can do in response to a
23 breach that potentially affects their personally iden-
24 tifiable information, including relevant contact infor-

1 mation for Federal law enforcement agencies and
2 each nationwide consumer reporting agency; and

3 “(6) any other appropriate information, as de-
4 termined by the head of the agency or established in
5 guidance by the Director.

6 “(c) DELAY OF NOTIFICATION.—

7 “(1) IN GENERAL.—The Attorney General, the
8 Director of National Intelligence, or the Secretary of
9 Homeland Security may delay a notification required
10 under subsection (a) or (d) if the notification
11 would—

12 “(A) impede a criminal investigation or a
13 national security activity;

14 “(B) reveal sensitive sources and methods;

15 “(C) cause damage to national security; or

16 “(D) hamper security remediation actions.

17 “(2) DOCUMENTATION.—

18 “(A) IN GENERAL.—Any delay under para-
19 graph (1) shall be reported in writing to the Di-
20 rector, the Attorney General, the Director of
21 National Intelligence, the Secretary of Home-
22 land Security, the National Cyber Director, the
23 Director of the Cybersecurity and Infrastruc-
24 ture Security Agency, and the head of the agen-

1 cy and the inspector general of the agency that
2 experienced the breach.

3 “(B) CONTENTS.—A report required under
4 subparagraph (A) shall include a written state-
5 ment from the entity that delayed the notifica-
6 tion explaining the need for the delay.

7 “(C) FORM.—The report required under
8 subparagraph (A) shall be unclassified but may
9 include a classified annex.

10 “(3) RENEWAL.—A delay under paragraph (1)
11 shall be for a period of 60 days and may be renewed.

12 “(d) UPDATE NOTIFICATION.—If an agency deter-
13 mines there is a significant change in the reasonable basis
14 to conclude that a breach occurred, a significant change
15 to the determination made under subsection (a)(1), or that
16 it is necessary to update the details of the information pro-
17 vided to potentially affected individuals as described in
18 subsection (b), the agency shall as expeditiously as prac-
19 ticable and without unreasonable delay, and in any case
20 not later than 30 days after such a determination, notify
21 each individual who received a notification pursuant to
22 subsection (a) of those changes.

23 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion shall be construed to limit—

1 “(1) the Director from issuing guidance relat-
2 ing to notifications or the head of an agency from
3 notifying individuals potentially affected by breaches
4 that are not determined to be major incidents; or

5 “(2) the Director from issuing guidance relat-
6 ing to notifications of major incidents or the head of
7 an agency from providing more information than de-
8 scribed in subsection (b) when notifying individuals
9 potentially affected by breaches.

10 **“§ 3593. Congressional and Executive Branch reports**

11 “(a) INITIAL REPORT.—

12 “(1) IN GENERAL.—Not later than 72 hours
13 after an agency has a reasonable basis to conclude
14 that a major incident occurred, the head of the
15 agency impacted by the major incident shall submit
16 to the appropriate reporting entities a written report
17 and, to the extent practicable, provide a briefing to
18 the Committee on Homeland Security and Govern-
19 mental Affairs of the Senate, the Committee on
20 Oversight and Reform of the House of Representa-
21 tives, the Committee on Homeland Security of the
22 House of Representatives, and the appropriate au-
23 thorization and appropriations committees of Con-
24 gress, taking into account—

1 “(A) the information known at the time of
2 the report;

3 “(B) the sensitivity of the details associ-
4 ated with the major incident; and

5 “(C) the classification level of the informa-
6 tion contained in the report.

7 “(2) CONTENTS.—A report required under
8 paragraph (1) shall include, in a manner that ex-
9 cludes or otherwise reasonably protects personally
10 identifiable information and to the extent permitted
11 by applicable law, including privacy and statistical
12 laws—

13 “(A) a summary of the information avail-
14 able about the major incident, including how
15 the major incident occurred, information indi-
16 cating that the major incident may be a breach,
17 and information relating to the major incident
18 as a breach, based on information available to
19 agency officials as of the date on which the
20 agency submits the report;

21 “(B) if applicable, a description and any
22 associated documentation of any circumstances
23 necessitating a delay in a notification to individ-
24 uals potentially affected by the major incident
25 under section 3592(c);

1 “(C) if applicable, an assessment of the
2 impacts to the agency, the Federal Government,
3 or the security of the United States, based on
4 information available to agency officials on the
5 date on which the agency submits the report;
6 and

7 “(D) if applicable, whether any ransom has
8 been demanded or paid, or plans to be paid, by
9 any entity operating a Federal information sys-
10 tem or with access to a Federal information
11 system, unless disclosure of such information
12 may disrupt an active Federal law enforcement
13 or national security operation.

14 “(b) SUPPLEMENTAL REPORT.—Within a reasonable
15 amount of time, but not later than 30 days after the date
16 on which an agency submits a written report under sub-
17 section (a), the head of the agency shall provide to the
18 appropriate reporting entities written updates, which may
19 include classified annexes, on the major incident and, to
20 the extent practicable, provide a briefing, which may in-
21 clude a classified component, to the congressional commit-
22 tees described in subsection (a)(1), including summaries
23 of—

1 “(1) vulnerabilities, means by which the major
2 incident occurred, and impacts to the agency relat-
3 ing to the major incident;

4 “(2) any risk assessment and subsequent risk-
5 based security implementation of the affected infor-
6 mation system before the date on which the major
7 incident occurred;

8 “(3) the status of compliance of the affected in-
9 formation system with applicable security require-
10 ments that are directly related to the cause of the
11 incident, at the time of the major incident;

12 “(4) an estimate of the number of individuals
13 potentially affected by the major incident based on
14 information available to agency officials as of the
15 date on which the agency provides the update;

16 “(5) an assessment of the risk of harm to indi-
17 viduals potentially affected by the major incident
18 based on information available to agency officials as
19 of the date on which the agency provides the update;

20 “(6) an update to the assessment of the risk to
21 agency operations, or to impacts on other agency or
22 non-Federal entity operations, affected by the major
23 incident based on information available to agency of-
24 ficials as of the date on which the agency provides
25 the update;

1 “(7) the detection, response, and remediation
2 actions of the agency, including any support pro-
3 vided by the Cybersecurity and Infrastructure Secu-
4 rity Agency under section 3594(d) and status up-
5 dates on the notification process described in section
6 3592(a), including any delay described in section
7 3592(e), if applicable; and

8 “(8) if applicable, a description of any cir-
9 cumstances or data leading the head of the agency
10 to determine, pursuant to section 3592(a)(1), not to
11 notify individuals potentially impacted by a breach.

12 “(c) UPDATE REPORT.—If the agency determines
13 that there is any significant change in the understanding
14 of the agency of the scope, scale, or consequence of a
15 major incident for which an agency submitted a written
16 report under subsection (a), the agency shall provide an
17 updated report to the appropriate reporting entities that
18 includes information relating to the change in under-
19 standing.

20 “(d) BIENNIAL REPORT.—Each agency shall submit
21 as part of the biannual report required under section
22 3554(c)(1) of this title a description of each major inci-
23 dent that occurred during the 2-year period preceding the
24 date on which the biannual report is submitted.

25 “(e) DELAY AND LACK OF NOTIFICATION REPORT.—

1 “(1) IN GENERAL.—The Director shall submit
2 to the appropriate reporting entities an annual re-
3 port on all notification delays granted pursuant to
4 section 3592(c).

5 “(2) LACK OF BREACH NOTIFICATION.—The
6 Director shall submit to the appropriate reporting
7 entities an annual report on each breach with re-
8 spect to which the head of an agency determined,
9 pursuant to section 3592(a)(1), not to notify individ-
10 uals potentially impacted by the breach.

11 “(3) COMPONENT OF OTHER REPORT.—The Di-
12 rector may submit the report required under para-
13 graph (1) as a component of the annual report sub-
14 mitted under section 3597(b).

15 “(f) REPORT DELIVERY.—Any written report re-
16 quired to be submitted under this section may be sub-
17 mitted in a paper or electronic format.

18 “(g) THREAT BRIEFING.—

19 “(1) IN GENERAL.—Not later than 7 days after
20 the date on which an agency has a reasonable basis
21 to conclude that a major incident occurred, the head
22 of the agency, jointly with the Director, the National
23 Cyber Director and any other Federal entity deter-
24 mined appropriate by the National Cyber Director,
25 shall provide a briefing to the congressional commit-

1 tees described in subsection (a)(1) on the threat
2 causing the major incident.

3 “(2) COMPONENTS.—The briefing required
4 under paragraph (1)—

5 “(A) shall, to the greatest extent prac-
6 ticable, include an unclassified component; and

7 “(B) may include a classified component.

8 “(h) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be construed to limit—

10 “(1) the ability of an agency to provide addi-
11 tional reports or briefings to Congress; or

12 “(2) Congress from requesting additional infor-
13 mation from agencies through reports, briefings, or
14 other means.

15 **“§ 3594. Government information sharing and inci-**
16 **dent response**

17 “(a) IN GENERAL.—

18 “(1) INCIDENT REPORTING.—Subject to the
19 limitations described in subsection (b), the head of
20 each agency shall provide any information relating
21 to any incident affecting the agency, whether the in-
22 formation is obtained by the Federal Government di-
23 rectly or indirectly, to the Cybersecurity and Infra-
24 structure Security Agency.

1 “(2) CONTENTS.—A provision of information
2 relating to an incident made by the head of an agen-
3 cy under paragraph (1) shall—

4 “(A) include detailed information about
5 the safeguards that were in place when the inci-
6 dent occurred;

7 “(B) whether the agency implemented the
8 safeguards described in subparagraph (A) cor-
9 rectly;

10 “(C) in order to protect against a similar
11 incident, identify—

12 “(i) how the safeguards described in
13 subparagraph (A) should be implemented
14 differently; and

15 “(ii) additional necessary safeguards;
16 and

17 “(D) include information to aid in incident
18 response, such as—

19 “(i) a description of the affected sys-
20 tems or networks;

21 “(ii) the estimated dates of when the
22 incident occurred; and

23 “(iii) information that could reason-
24 ably help identify the party that conducted

1 the incident or the cause of the incident,
2 subject to appropriate privacy protections.

3 “(3) INFORMATION SHARING.—The Director of
4 the Cybersecurity and Infrastructure Security Agen-
5 cy shall—

6 “(A) make incident information provided
7 under paragraph (1) available to the Director
8 and the National Cyber Director;

9 “(B) to the greatest extent practicable,
10 share information relating to an incident with
11 the head of any agency that may be—

12 “(i) impacted by the incident;

13 “(ii) similarly susceptible to the inci-
14 dent; or

15 “(iii) similarly targeted by the inci-
16 dent; and

17 “(C) coordinate any necessary information
18 sharing efforts relating to a major incident with
19 the private sector.

20 “(4) NATIONAL SECURITY SYSTEMS.—Each
21 agency operating or exercising control of a national
22 security system shall share information about inci-
23 dents that occur on national security systems with
24 the Director of the Cybersecurity and Infrastructure
25 Security Agency to the extent consistent with stand-

1 ards and guidelines for national security systems
2 issued in accordance with law and as directed by the
3 President.

4 “(b) COMPLIANCE.—In providing information and se-
5 lecting a method to provide information under subsection
6 (a), the head of each agency shall take into account the
7 level of classification of the information and any informa-
8 tion sharing limitations and protections, such as limita-
9 tions and protections relating to law enforcement, national
10 security, privacy, statistical confidentiality, or other fac-
11 tors determined by the Director in order to implement
12 subsection (a)(1) in a manner that enables automated and
13 consistent reporting to the greatest extent practicable.

14 “(c) INCIDENT RESPONSE.—Each agency that has a
15 reasonable basis to conclude that a major incident oc-
16 curred involving Federal information in electronic medium
17 or form that does not exclusively involve a national secu-
18 rity system, regardless of delays from notification granted
19 for a major incident that is also a breach, shall coordinate
20 with the Cybersecurity and Infrastructure Security Agen-
21 cy to facilitate asset response activities and provide rec-
22 ommendations for mitigating future incidents.

23 “§ 3595. Responsibilities of contractors and awardees

24 “(a) REPORTING.—

1 “(1) IN GENERAL.—Unless otherwise specified
2 in a contract, grant, cooperative agreement, or an
3 other transaction agreement, any contractor or
4 awardee of an agency shall report to the agency
5 within the same amount of time such agency is re-
6 quired to report an incident to the Cybersecurity
7 and Infrastructure Security Agency, if the con-
8 tractor or awardee has a reasonable basis to suspect
9 or conclude that—

10 “(A) an incident or breach has occurred
11 with respect to Federal information collected,
12 used, or maintained by the contractor or award-
13 ee in connection with the contract, grant, coop-
14 erative agreement, or other transaction agree-
15 ment of the contractor or awardee;

16 “(B) an incident or breach has occurred
17 with respect to a Federal information system
18 used or operated by the contractor or awardee
19 in connection with the contract, grant, coopera-
20 tive agreement, or other transaction agreement
21 of the contractor or awardee; or

22 “(C) the contractor or awardee has re-
23 ceived information from the agency that the
24 contractor or awardee is not authorized to re-
25 ceive in connection with the contract, grant, co-

1 operative agreement, or other transaction agree-
2 ment of the contractor or awardee.

3 “(2) PROCEDURES.—

4 “(A) MAJOR INCIDENT.—Following a re-
5 port of a breach or major incident by a con-
6 tractor or awardee under paragraph (1), the
7 agency, in consultation with the contractor or
8 awardee, shall carry out the requirements under
9 sections 3592, 3593, and 3594 with respect to
10 the major incident.

11 “(B) INCIDENT.—Following a report of an
12 incident by a contractor or awardee under para-
13 graph (1), an agency, in consultation with the
14 contractor or awardee, shall carry out the re-
15 quirements under section 3594 with respect to
16 the incident.

17 “(b) EFFECTIVE DATE.—This section shall apply—

18 “(1) on and after the date that is 1 year after
19 the date of enactment of the Federal Information
20 Security Modernization Act of 2022; and

21 “(2) with respect to any contract entered into
22 on or after the date described in paragraph (1).

23 **“§ 3596. Training**

24 “(a) COVERED INDIVIDUAL DEFINED.—In this sec-
25 tion, the term ‘covered individual’ means an individual

1 who obtains access to Federal information or Federal in-
2 formation systems because of the status of the individual
3 as an employee, contractor, awardee, volunteer, or intern
4 of an agency.

5 “(b) REQUIREMENT.—The head of each agency shall
6 develop training for covered individuals on how to identify
7 and respond to an incident, including—

8 “(1) the internal process of the agency for re-
9 porting an incident; and

10 “(2) the obligation of a covered individual to re-
11 port to the agency a confirmed major incident and
12 any suspected incident involving information in any
13 medium or form, including paper, oral, and elec-
14 tronic.

15 “(c) INCLUSION IN ANNUAL TRAINING.—The train-
16 ing developed under subsection (b) may be included as
17 part of an annual privacy or security awareness training
18 of an agency.

19 **“§ 3597. Analysis and report on Federal incidents**

20 “(a) ANALYSIS OF FEDERAL INCIDENTS.—

21 “(1) QUANTITATIVE AND QUALITATIVE ANAL-
22 YSES.—The Director of the Cybersecurity and Infra-
23 structure Security Agency shall develop, in consulta-
24 tion with the Director and the National Cyber Direc-
25 tor, and perform continuous monitoring and quan-

1 titative and qualitative analyses of incidents at agen-
2 cies, including major incidents, including—

3 “(A) the causes of incidents, including—

4 “(i) attacker tactics, techniques, and
5 procedures; and

6 “(ii) system vulnerabilities, including
7 zero days, unpatched systems, and infor-
8 mation system misconfigurations;

9 “(B) the scope and scale of incidents at
10 agencies;

11 “(C) common root causes of incidents
12 across multiple Federal agencies;

13 “(D) agency incident response, recovery,
14 and remediation actions and the effectiveness of
15 those actions, as applicable;

16 “(E) lessons learned and recommendations
17 in responding to, recovering from, remediating,
18 and mitigating future incidents; and

19 “(F) trends across multiple Federal agen-
20 cies to address intrusion detection and incident
21 response capabilities using the metrics estab-
22 lished under section 224(c) of the Cybersecurity
23 Act of 2015 (6 U.S.C. 1522(c)).

24 “(2) AUTOMATED ANALYSIS.—The analyses de-
25 veloped under paragraph (1) shall, to the greatest

1 extent practicable, use machine readable data, auto-
2 mation, and machine learning processes.

3 “(3) SHARING OF DATA AND ANALYSIS.—

4 “(A) IN GENERAL.—The Director shall
5 share on an ongoing basis the analyses required
6 under this subsection with agencies and the Na-
7 tional Cyber Director to—

8 “(i) improve the understanding of cy-
9 bersecurity risk of agencies; and

10 “(ii) support the cybersecurity im-
11 provement efforts of agencies.

12 “(B) FORMAT.—In carrying out subpara-
13 graph (A), the Director shall share the anal-
14 yses—

15 “(i) in human-readable written prod-
16 ucts; and

17 “(ii) to the greatest extent practicable,
18 in machine-readable formats in order to
19 enable automated intake and use by agen-
20 cies.

21 “(b) ANNUAL REPORT ON FEDERAL INCIDENTS.—

22 Not later than 2 years after the date of enactment of this
23 section, and not less frequently than annually thereafter,
24 the Director of the Cybersecurity and Infrastructure Secu-
25 rity Agency, in consultation with the Director, the Na-

1 tional Cyber Director and the heads of other Federal agen-
2 cies, as appropriate, shall submit to the appropriate re-
3 porting entities a report that includes—

4 “(1) a summary of causes of incidents from
5 across the Federal Government that categorizes
6 those incidents as incidents or major incidents;

7 “(2) the quantitative and qualitative analyses of
8 incidents developed under subsection (a)(1) on an
9 agency-by-agency basis and comprehensively across
10 the Federal Government, including—

11 “(A) a specific analysis of breaches; and

12 “(B) an analysis of the Federal Govern-
13 ment’s performance against the metrics estab-
14 lished under section 224(c) of the Cybersecurity
15 Act of 2015 (6 U.S.C. 1522(c)); and

16 “(3) an annex for each agency that includes—

17 “(A) a description of each major incident;

18 “(B) the total number of incidents of the
19 agency; and

20 “(C) an analysis of the agency’s perform-
21 ance against the metrics established under sec-
22 tion 224(c) of the Cybersecurity Act of 2015 (6
23 U.S.C. 1522(c)).

24 “(c) PUBLICATION.—

1 “(1) IN GENERAL.—A version of each report
2 submitted under subsection (b) shall be made pub-
3 licly available on the website of the Cybersecurity
4 and Infrastructure Security Agency during the year
5 in which the report is submitted.

6 “(2) EXEMPTION.—The Director of the Cyber-
7 security and Infrastructure Security Agency may ex-
8 empt all or a portion of a report described in para-
9 graph (1) from public publication if the Director of
10 the Cybersecurity and Infrastructure Security Agen-
11 cy determines the exemption is in the interest of na-
12 tional security.

13 “(3) LIMITATION ON EXEMPTION.—An exemp-
14 tion granted under paragraph (2) shall not apply to
15 any version of a report submitted to the appropriate
16 reporting entities under subsection (b).

17 “(d) INFORMATION PROVIDED BY AGENCIES.—

18 “(1) IN GENERAL.—The analysis required
19 under subsection (a) and each report submitted
20 under subsection (b) shall use information provided
21 by agencies under section 3594(a).

22 “(2) NONCOMPLIANCE REPORTS.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), during any year during which the
25 head of an agency does not provide data for an

1 incident to the Cybersecurity and Infrastructure
2 Security Agency in accordance with section
3 3594(a), the head of the agency, in coordina-
4 tion with the Director of the Cybersecurity and
5 Infrastructure Security Agency and the Direc-
6 tor, shall submit to the appropriate reporting
7 entities a report that includes the information
8 described in subsection (b) with respect to the
9 agency.

10 “(B) EXCEPTION FOR NATIONAL SECURITY
11 SYSTEMS.—The head of an agency that owns or
12 exercises control of a national security system
13 shall not include data for an incident that oc-
14 curs on a national security system in any report
15 submitted under subparagraph (A).

16 “(3) NATIONAL SECURITY SYSTEM REPORTS.—

17 “(A) IN GENERAL.—Annually, the head of
18 an agency that operates or exercises control of
19 a national security system shall submit a report
20 that includes the information described in sub-
21 section (b) with respect to the national security
22 system to the extent that the submission is con-
23 sistent with standards and guidelines for na-
24 tional security systems issued in accordance
25 with law and as directed by the President to—

1 “(i) the majority and minority leaders
2 of the Senate,

3 “(ii) the Speaker and minority leader
4 of the House of Representatives;

5 “(iii) the Committee on Homeland Se-
6 curity and Governmental Affairs of the
7 Senate;

8 “(iv) the Select Committee on Intel-
9 ligence of the Senate;

10 “(v) the Committee on Armed Serv-
11 ices of the Senate;

12 “(vi) the Committee on Appropria-
13 tions of the Senate;

14 “(vii) the Committee on Oversight and
15 Reform of the House of Representatives;

16 “(viii) the Committee on Homeland
17 Security of the House of Representatives;

18 “(ix) the Permanent Select Committee
19 on Intelligence of the House of Represent-
20 atives;

21 “(x) the Committee on Armed Serv-
22 ices of the House of Representatives; and

23 “(xi) the Committee on Appropria-
24 tions of the House of Representatives.

1 “(B) CLASSIFIED FORM.—A report re-
2 quired under subparagraph (A) may be sub-
3 mitted in a classified form.

4 “(e) REQUIREMENT FOR COMPILING INFORMA-
5 TION.—In publishing the public report required under
6 subsection (c), the Director of the Cybersecurity and In-
7 frastructure Security Agency shall sufficiently compile in-
8 formation such that no specific incident of an agency can
9 be identified, except with the concurrence of the Director
10 of the Office of Management and Budget and in consulta-
11 tion with the impacted agency.

12 **“§ 3598. Major incident definition**

13 “(a) IN GENERAL.—Not later than 180 days after
14 the date of enactment of the Federal Information Security
15 Modernization Act of 2022, the Director, in coordination
16 with the Director of the Cybersecurity and Infrastructure
17 Security Agency and the National Cyber Director, shall
18 develop and promulgate guidance on the definition of the
19 term ‘major incident’ for the purposes of subchapter II
20 and this subchapter.

21 “(b) REQUIREMENTS.—With respect to the guidance
22 issued under subsection (a), the definition of the term
23 ‘major incident’ shall—

24 “(1) include, with respect to any information
25 collected or maintained by or on behalf of an agency

1 or an information system used or operated by an
2 agency or by a contractor of an agency or another
3 organization on behalf of an agency—

4 “(A) any incident the head of the agency
5 determines is likely to have an impact on—

6 “(i) the national security, homeland
7 security, or economic security of the
8 United States; or

9 “(ii) the civil liberties or public health
10 and safety of the people of the United
11 States;

12 “(B) any incident the head of the agency
13 determines likely to result in an inability for the
14 agency, a component of the agency, or the Fed-
15 eral Government, to provide 1 or more critical
16 services;

17 “(C) any incident that the head of an
18 agency, in consultation with a senior privacy of-
19 ficer of the agency, determines is likely to have
20 a significant privacy impact on 1 or more indi-
21 vidual;

22 “(D) any incident that the head of the
23 agency, in consultation with a senior privacy of-
24 ficial of the agency, determines is likely to have

1 a substantial privacy impact on a significant
2 number of individuals;

3 “(E) any incident the head of the agency
4 determines substantially disrupts the operations
5 of a high value asset owned or operated by the
6 agency;

7 “(F) any incident involving the exposure of
8 sensitive agency information to a foreign entity,
9 such as the communications of the head of the
10 agency, the head of a component of the agency,
11 or the direct reports of the head of the agency
12 or the head of a component of the agency; and

13 “(G) any other type of incident determined
14 appropriate by the Director;

15 “(2) stipulate that the National Cyber Director,
16 in consultation with the Director, shall declare a
17 major incident at each agency impacted by an inci-
18 dent if it is determined that an incident—

19 “(A) occurs at not less than 2 agencies;

20 and

21 “(B) is enabled by—

22 “(i) a common technical root cause,
23 such as a supply chain compromise, a com-
24 mon software or hardware vulnerability; or

1 “(ii) the related activities of a com-
2 mon threat actor; and

3 “(3) stipulate that, in determining whether an
4 incident constitutes a major incident because that
5 incident is any incident described in paragraph (1),
6 the head of the agency shall consult with the Na-
7 tional Cyber Director and may consult with the Di-
8 rector of the Cybersecurity and Infrastructure Secu-
9 rity Agency.

10 “(c) SIGNIFICANT NUMBER OF INDIVIDUALS.—In de-
11 termining what constitutes a significant number of indi-
12 viduals under subsection (b)(1)(D), the Director—

13 “(1) may determine a threshold for a minimum
14 number of individuals that constitutes a significant
15 amount; and

16 “(2) may not determine a threshold described
17 in paragraph (1) that exceeds 5,000 individuals.

18 “(d) EVALUATION AND UPDATES.—Not later than 2
19 years after the date of enactment of the Federal Informa-
20 tion Security Modernization Act of 2022, and not less fre-
21 quently than every 2 years thereafter, the Director shall
22 provide a briefing to the Committee on Homeland Security
23 and Governmental Affairs of the Senate and the Com-
24 mittee on Oversight and Reform of the House of Rep-
25 resentatives, which shall include—

1 “(1) an evaluation of any necessary updates to
2 the guidance issued under subsection (a);

3 “(2) an evaluation of any necessary updates to
4 the definition of the term ‘major incident’ included
5 in the guidance issued under subsection (a); and

6 “(3) an explanation of, and the analysis that
7 led to, the definition described in paragraph (2).”.

8 (2) CLERICAL AMENDMENT.—The table of sec-
9 tions for chapter 35 of title 44, United States Code,
10 is amended by adding at the end the following:

“SUBCHAPTER IV—FEDERAL SYSTEM INCIDENT RESPONSE

“3591. Definitions

“3592. Notification of breach

“3593. Congressional and Executive Branch reports

“3594. Government information sharing and incident response

“3595. Responsibilities of contractors and awardees

“3596. Training

“3597. Analysis and report on Federal incidents

“3598. Major incident definition”.

11 **SEC. 104. AMENDMENTS TO SUBTITLE III OF TITLE 40.**

12 (a) MODERNIZING GOVERNMENT TECHNOLOGY.—
13 Subtitle G of title X of Division A of the National Defense
14 Authorization Act for Fiscal Year 2018 (40 U.S.C. 11301
15 note) is amended in section 1078—

16 (1) by striking subsection (a) and inserting the
17 following:

18 “(a) DEFINITIONS.—In this section:

19 “(1) AGENCY.—The term ‘agency’ has the
20 meaning given the term in section 551 of title 5,
21 United States Code.

1 “(2) HIGH VALUE ASSET.—The term ‘high
2 value asset’ has the meaning given the term in sec-
3 tion 3552 of title 44, United States Code.”;

4 (2) in subsection (b), by adding at the end the
5 following:

6 “(8) PROPOSAL EVALUATION.—The Director
7 shall—

8 “(A) give consideration for the use of
9 amounts in the Fund to improve the security of
10 high value assets; and

11 “(B) require that any proposal for the use
12 of amounts in the Fund includes a cybersecurity
13 plan, including a supply chain risk manage-
14 ment plan, to be reviewed by the member of the
15 Technology Modernization Board described in
16 subsection (c)(5)(C).”; and

17 (3) in subsection (c)—

18 (A) in paragraph (2)(A)(i), by inserting “,
19 including a consideration of the impact on high
20 value assets” after “operational risks”;

21 (B) in paragraph (5)—

22 (i) in subparagraph (A), by striking
23 “and” at the end;

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

4 (iii) by adding at the end the fol-
5 lowing:

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.”; and

10 (C) in paragraph (6)(A), by striking “shall
11 be—” and all that follows through “4 employ-
12 ees” and inserting “shall be 4 employees”.

13 (b) SUBCHAPTER I.—Subchapter I of chapter 113 of
14 subtitle III of title 40, United States Code, is amended—

15 (1) in section 11302—

16 (A) in subsection (b), by striking “use, se-
17 curity, and disposal of” and inserting “use, and
18 disposal of, and, in consultation with the Direc-
19 tor of the Cybersecurity and Infrastructure Se-
20 curity Agency and the National Cyber Director,
21 promote and improve the security of,”;

22 (B) in subsection (c)—

23 (i) in paragraph (3)—

24 (I) in subparagraph (A)—

1 (aa) by striking “including
2 data” and inserting “which
3 shall—

4 “(i) include data”; and

5 (bb) by adding at the end
6 the following:

7 “(ii) specifically denote cybersecurity
8 funding under the risk-based cyber budget
9 model developed pursuant to section
10 3553(a)(7) of title 44.”; and

11 (II) in subparagraph (B), by add-
12 ing at the end the following:

13 “(iii) The Director shall provide to the
14 National Cyber Director any cybersecurity
15 funding information described in subpara-
16 graph (A)(ii) that is provided to the Direc-
17 tor under clause (ii) of this subpara-
18 graph.”;

19 (C) in subsection (f)—

20 (i) by striking “heads of executive
21 agencies to develop” and inserting “heads
22 of executive agencies to—

23 “(1) develop”;

1 (ii) in paragraph (1), as so des-
2 ignated, by striking the period at the end
3 and inserting “; and”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(2) consult with the Director of the Cybersecu-
7 rity and Infrastructure Security Agency for the de-
8 velopment and use of supply chain security best
9 practices.”; and

10 (D) in subsection (h), by inserting “, in-
11 cluding cybersecurity performances,” after “the
12 performances”; and

13 (2) in section 11303(b)—

14 (A) in paragraph (2)(B)—

15 (i) in clause (i), by striking “or” at
16 the end;

17 (ii) in clause (ii), by adding “or” at
18 the end; and

19 (iii) by adding at the end the fol-
20 lowing:

21 “(iii) whether the function should be
22 performed by a shared service offered by
23 another executive agency;”; and

24 (B) in paragraph (5)(B)(i), by inserting “,
25 while taking into account the risk-based cyber

1 budget model developed pursuant to section
2 3553(a)(7) of title 44” after “title 31”.

3 (c) SUBCHAPTER II.—Subchapter II of chapter 113
4 of subtitle III of title 40, United States Code, is amend-
5 ed—

6 (1) in section 11312(a), by inserting “, includ-
7 ing security risks” after “managing the risks”;

8 (2) in section 11313(1), by striking “efficiency
9 and effectiveness” and inserting “efficiency, security,
10 and effectiveness”;

11 (3) in section 11315, by adding at the end the
12 following:

13 “(d) COMPONENT AGENCY CHIEF INFORMATION OF-
14 FICERS.—The Chief Information Officer or an equivalent
15 official of a component agency shall report to—

16 “(1) the Chief Information Officer designated
17 under section 3506(a)(2) of title 44 or an equivalent
18 official of the agency of which the component agency
19 is a component; and

20 “(2) the head of the component agency.

21 “(e) REPORTING STRUCTURE EXEMPTION.—

22 “(1) IN GENERAL.—On annual basis, the Direc-
23 tor may exempt any agency from the reporting
24 structure requirements under subsection (d).

1 “(2) REPORT.—On an annual basis, the Direc-
2 tor shall submit to the Committee on Homeland Se-
3 curity and Governmental Affairs of the Senate and
4 the Committee on Oversight and Reform of the
5 House of Representatives a report that includes a
6 list of each exemption granted under paragraph (1)
7 and the associated rationale for each exemption.

8 “(3) COMPONENT OF OTHER REPORT.—The re-
9 port required under paragraph (2) may be incor-
10 porated into any other annual report required under
11 chapter 35 of title 44, United States Code.”;

12 (4) in section 11317, by inserting “security,”
13 before “or schedule”; and

14 (5) in section 11319(b)(1), in the paragraph
15 heading, by striking “CIOS” and inserting “CHIEF
16 INFORMATION OFFICERS”.

17 (d) SUBCHAPTER III.—Section 11331 of title 40,
18 United States Code, is amended—

19 (1) in subsection (a), by striking “section
20 3532(b)(1)” and inserting “section 3552(b)”;

21 (2) in subsection (b)(1)(A), by striking “the
22 Secretary of Homeland Security” and inserting “the
23 Director of the Cybersecurity and Infrastructure Se-
24 curity Agency”;

1 (3) by striking subsection (c) and inserting the
2 following:

3 “(c) APPLICATION OF MORE STRINGENT STAND-
4 ARDS.—

5 “(1) IN GENERAL.—The head of an agency
6 shall—

7 “(A) evaluate, in consultation with the sen-
8 ior agency information security officers, the
9 need to employ standards for cost-effective,
10 risk-based information security for all systems,
11 operations, and assets within or under the su-
12 pervision of the agency that are more stringent
13 than the standards promulgated by the Director
14 under this section, if such standards contain, at
15 a minimum, the provisions of those applicable
16 standards made compulsory and binding by the
17 Director; and

18 “(B) to the greatest extent practicable and
19 if the head of the agency determines that the
20 standards described in subparagraph (A) are
21 necessary, employ those standards.

22 “(2) EVALUATION OF MORE STRINGENT STAND-
23 ARDS.—In evaluating the need to employ more strin-
24 gent standards under paragraph (1), the head of an

1 agency shall consider available risk information,
2 such as—

3 “(A) the status of cybersecurity remedial
4 actions of the agency;

5 “(B) any vulnerability information relating
6 to agency systems that is known to the agency;

7 “(C) incident information of the agency;

8 “(D) information from—

9 “(i) penetration testing performed
10 under section 3559A of title 44; and

11 “(ii) information from the vulner-
12 ability disclosure program established
13 under section 3559B of title 44;

14 “(E) agency threat hunting results under
15 section 112 of the Federal Information Security
16 Modernization Act of 2022;

17 “(F) Federal and non-Federal cyber threat
18 intelligence;

19 “(G) data on compliance with standards
20 issued under this section;

21 “(H) agency system risk assessments per-
22 formed under section 3554(a)(1)(A) of title 44;
23 and

24 “(I) any other information determined rel-
25 evant by the head of the agency.”;

1 (4) in subsection (d)(2)—

2 (A) in the paragraph heading, by striking
3 “NOTICE AND COMMENT” and inserting “CON-
4 SULTATION, NOTICE, AND COMMENT”;

5 (B) by inserting “promulgate,” before
6 “significantly modify”; and

7 (C) by striking “shall be made after the
8 public is given an opportunity to comment on
9 the Director’s proposed decision.” and inserting
10 “shall be made—

11 “(A) for a decision to significantly modify
12 or not promulgate such a proposed standard,
13 after the public is given an opportunity to com-
14 ment on the Director’s proposed decision;

15 “(B) in consultation with the Chief Infor-
16 mation Officers Council, the Director of the Cy-
17 bersecurity and Infrastructure Security Agency,
18 the National Cyber Director, the Comptroller
19 General of the United States, and the Council
20 of the Inspectors General on Integrity and Effi-
21 ciency;

22 “(C) considering the Federal risk assess-
23 ments performed under section 3553(i) of title
24 44; and

1 “(D) considering the extent to which the
2 proposed standard reduces risk relative to the
3 cost of implementation of the standard.”; and
4 (5) by adding at the end the following:

5 “(e) REVIEW OF OFFICE OF MANAGEMENT AND
6 BUDGET GUIDANCE AND POLICY.—

7 “(1) CONDUCT OF REVIEW.—

8 “(A) IN GENERAL.—Not less frequently
9 than once every 3 years, the Director of the Of-
10 fice of Management and Budget, in consultation
11 with the Chief Information Officers Council, the
12 Director of the Cybersecurity and Infrastruc-
13 ture Security Agency, the National Cyber Di-
14 rector, the Comptroller General of the United
15 States, and the Council of the Inspectors Gen-
16 eral on Integrity and Efficiency, shall review
17 the efficacy of the guidance and policy promul-
18 gated by the Director in reducing cybersecurity
19 risks, including an assessment of the require-
20 ments for agencies to report information to the
21 Director, and determine whether any changes to
22 that guidance or policy is appropriate.

23 “(B) FEDERAL RISK ASSESSMENTS.—In
24 conducting the review described in subpara-
25 graph (A), the Director shall consider the Fed-

1 eral risk assessments performed under section
2 3553(i) of title 44.

3 “(C) REQUIREMENTS BURDEN REDUCTION
4 AND CLARITY.—In conducting the review de-
5 scribed in subparagraph (A), the Director shall
6 consider—

7 “(i) the cumulative reporting and
8 compliance burden to agencies; and

9 “(ii) the clarity of the requirements
10 and deadlines contained in guidance and
11 policy documents.

12 “(2) UPDATED GUIDANCE.—Not later than 90
13 days after the date on which a review is completed
14 under paragraph (1), the Director of the Office of
15 Management and Budget shall issue updated guid-
16 ance or policy to agencies determined appropriate by
17 the Director, based on the results of the review.

18 “(3) PUBLIC REPORT.—Not later than 30 days
19 after the date on which a review is completed under
20 paragraph (1), the Director of the Office of Manage-
21 ment and Budget shall make publicly available a re-
22 port that includes—

23 “(A) an overview of the guidance and pol-
24 icy promulgated under this section that is cur-
25 rently in effect;

1 “(B) the cybersecurity risk mitigation, or
2 other cybersecurity benefit, offered by each
3 guidance or policy document described in sub-
4 paragraph (A); and

5 “(C) a summary of the guidance or policy
6 to which changes were determined appropriate
7 during the review and what the changes are an-
8 ticipated to include.

9 “(4) CONGRESSIONAL BRIEFING.—Not later
10 than 60 days after the date on which a review is
11 completed under paragraph (1), the Director shall
12 provide to the Committee on Homeland Security and
13 Governmental Affairs of the Senate and the Com-
14 mittee on Oversight and Reform of the House of
15 Representatives a briefing on the review.

16 “(f) AUTOMATED STANDARD IMPLEMENTATION
17 VERIFICATION.—When the Director of the National Insti-
18 tute of Standards and Technology issues a proposed
19 standard pursuant to paragraphs (2) and (3) of section
20 20(a) of the National Institute of Standards and Tech-
21 nology Act (15 U.S.C. 278g–3(a)), the Director of the Na-
22 tional Institute of Standards and Technology shall con-
23 sider developing and, if appropriate and practical, develop,
24 in consultation with the Director of the Cybersecurity and
25 Infrastructure Security Agency, specifications to enable

1 the automated verification of the implementation of the
2 controls within the standard.”.

3 **SEC. 105. ACTIONS TO ENHANCE FEDERAL INCIDENT**
4 **TRANSPARENCY.**

5 (a) RESPONSIBILITIES OF THE CYBERSECURITY AND
6 INFRASTRUCTURE SECURITY AGENCY.—

7 (1) IN GENERAL.—Not later than 180 days
8 after the date of enactment of this Act, the Director
9 of the Cybersecurity and Infrastructure Security
10 Agency shall—

11 (A) develop a plan for the development of
12 the analysis required under section 3597(a) of
13 title 44, United States Code, as added by this
14 title, and the report required under subsection
15 (b) of that section that includes—

16 (i) a description of any challenges the
17 Director of the Cybersecurity and Infra-
18 structure Security Agency anticipates en-
19 counterering; and

20 (ii) the use of automation and ma-
21 chine-readable formats for collecting, com-
22 piling, monitoring, and analyzing data; and

23 (B) provide to the appropriate congres-
24 sional committees a briefing on the plan devel-
25 oped under subparagraph (A).

1 (2) BRIEFING.—Not later than 1 year after the
2 date of enactment of this Act, the Director of the
3 Cybersecurity and Infrastructure Security Agency
4 shall provide to the appropriate congressional com-
5 mittees a briefing on—

6 (A) the execution of the plan required
7 under paragraph (1)(A); and

8 (B) the development of the report required
9 under section 3597(b) of title 44, United States
10 Code, as added by this title.

11 (b) RESPONSIBILITIES OF THE DIRECTOR OF THE
12 OFFICE OF MANAGEMENT AND BUDGET.—

13 (1) FISMA.—Section 2 of the Federal Informa-
14 tion Security Modernization Act of 2014 (44 U.S.C.
15 3554 note) is amended—

16 (A) by striking subsection (b); and

17 (B) by redesignating subsections (c)
18 through (f) as subsections (b) through (e), re-
19 spectively.

20 (2) INCIDENT DATA SHARING.—

21 (A) IN GENERAL.—The Director shall de-
22 velop guidance, to be updated not less fre-
23 quently than once every 2 years, on the content,
24 timeliness, and format of the information pro-

1 ering from, remediating, and miti-
2 gating future incidents; and

3 (II) the report on Federal inci-
4 dents required under section 3597(b)
5 of title 44, United States Code, as
6 added by this title;

7 (iii) include requirements for the time-
8 liness of data production; and

9 (iv) include requirements for using
10 automation and machine-readable data for
11 data sharing and availability.

12 (3) GUIDANCE ON RESPONDING TO INFORMA-
13 TION REQUESTS.—Not later than 1 year after the
14 date of enactment of this Act, the Director shall de-
15 velop guidance for agencies to implement the re-
16 quirement under section 3594(c) of title 44, United
17 States Code, as added by this title, to provide infor-
18 mation to other agencies experiencing incidents.

19 (4) STANDARD GUIDANCE AND TEMPLATES.—
20 Not later than 1 year after the date of enactment
21 of this Act, the Director, in consultation with the
22 Director of the Cybersecurity and Infrastructure Se-
23 curity Agency, shall develop guidance and templates,
24 to be reviewed and, if necessary, updated not less
25 frequently than once every 2 years, for use by Fed-

1 eral agencies in the activities required under sections
2 3592, 3593, and 3596 of title 44, United States
3 Code, as added by this title.

4 (5) CONTRACTOR AND AWARDEE GUIDANCE.—

5 (A) IN GENERAL.—Not later than 1 year
6 after the date of enactment of this Act, the Di-
7 rector, in coordination with the Secretary of
8 Homeland Security, the Secretary of Defense,
9 the Administrator of General Services, and the
10 heads of other agencies determined appropriate
11 by the Director, shall issue guidance to Federal
12 agencies on how to deconflict, to the greatest
13 extent practicable, existing regulations, policies,
14 and procedures relating to the responsibilities of
15 contractors and awardees established under sec-
16 tion 3595 of title 44, United States Code, as
17 added by this title.

18 (B) EXISTING PROCESSES.—To the great-
19 est extent practicable, the guidance issued
20 under subparagraph (A) shall allow contractors
21 and awardees to use existing processes for noti-
22 fying Federal agencies of incidents involving in-
23 formation of the Federal Government.

24 (6) UPDATED BRIEFINGS.—Not less frequently
25 than once every 2 years, the Director shall provide

1 to the appropriate congressional committees an up-
2 date on the guidance and templates developed under
3 paragraphs (2) through (4).

4 (c) UPDATE TO THE PRIVACY ACT OF 1974.—Sec-
5 tion 552a(b) of title 5, United States Code (commonly
6 known as the “Privacy Act of 1974”) is amended—

7 (1) in paragraph (11), by striking “or” at the
8 end;

9 (2) in paragraph (12), by striking the period at
10 the end and inserting “; or”; and

11 (3) by adding at the end the following:

12 “(13) to another agency in furtherance of a re-
13 sponse to an incident (as defined in section 3552 of
14 title 44) and pursuant to the information sharing re-
15 quirements in section 3594 of title 44 if the head of
16 the requesting agency has made a written request to
17 the agency that maintains the record specifying the
18 particular portion desired and the activity for which
19 the record is sought.”.

20 **SEC. 106. ADDITIONAL GUIDANCE TO AGENCIES ON FISMA**
21 **UPDATES.**

22 Not later than 1 year after the date of enactment
23 of this Act, the Director, in consultation with the Director
24 of the Cybersecurity and Infrastructure Security Agency,
25 shall issue guidance for agencies on—

1 (1) performing the ongoing and continuous
2 agency system risk assessment required under sec-
3 tion 3554(a)(1)(A) of title 44, United States Code,
4 as amended by this title;

5 (2) implementing additional cybersecurity pro-
6 cedures, which shall include resources for shared
7 services;

8 (3) establishing a process for providing the sta-
9 tus of each remedial action under section 3554(b)(7)
10 of title 44, United States Code, as amended by this
11 title, to the Director and the Cybersecurity and In-
12 frastructure Security Agency using automation and
13 machine-readable data, as practicable, which shall
14 include—

15 (A) specific guidance for the use of auto-
16 mation and machine-readable data; and

17 (B) templates for providing the status of
18 the remedial action; and

19 (4) a requirement to coordinate with inspectors
20 general of agencies to ensure consistent under-
21 standing and application of agency policies for the
22 purpose of evaluations by inspectors general.

23 **SEC. 107. AGENCY REQUIREMENTS TO NOTIFY PRIVATE**
24 **SECTOR ENTITIES IMPACTED BY INCIDENTS.**

25 (a) **DEFINITIONS.**—In this section:

1 (1) REPORTING ENTITY.—The term “reporting
2 entity” means private organization or governmental
3 unit that is required by statute or regulation to sub-
4 mit sensitive information to an agency.

5 (2) SENSITIVE INFORMATION.—The term “sen-
6 sitive information” has the meaning given the term
7 by the Director in guidance issued under subsection
8 (b).

9 (b) GUIDANCE ON NOTIFICATION OF REPORTING EN-
10 TITIES.—Not later than 180 days after the date of enact-
11 ment of this Act, the Director shall issue guidance requir-
12 ing the head of each agency to notify a reporting entity
13 of an incident that is likely to substantially affect—

14 (1) the confidentiality or integrity of sensitive
15 information submitted by the reporting entity to the
16 agency pursuant to a statutory or regulatory re-
17 quirement; or

18 (2) the agency information system or systems
19 used in the transmission or storage of the sensitive
20 information described in paragraph (1).

21 **SEC. 108. MOBILE SECURITY STANDARDS.**

22 (a) IN GENERAL.—Not later than 1 year after the
23 date of enactment of this Act, the Director shall—

24 (1) evaluate mobile application security guid-
25 ance promulgated by the Director; and

1 (2) issue guidance to secure mobile devices, in-
2 cluding for mobile applications, for every agency.

3 (b) CONTENTS.—The guidance issued under sub-
4 section (a)(2) shall include—

5 (1) a requirement, pursuant to section
6 3506(b)(4) of title 44, United States Code, for every
7 agency to maintain a continuous inventory of
8 every—

9 (A) mobile device operated by or on behalf
10 of the agency; and

11 (B) vulnerability identified by the agency
12 associated with a mobile device; and

13 (2) a requirement for every agency to perform
14 continuous evaluation of the vulnerabilities described
15 in paragraph (1)(B) and other risks associated with
16 the use of applications on mobile devices.

17 (c) INFORMATION SHARING.—The Director, in co-
18 ordination with the Director of the Cybersecurity and In-
19 frastructure Security Agency, shall issue guidance to
20 agencies for sharing the inventory of the agency required
21 under subsection (b)(1) with the Director of the Cyberse-
22 curity and Infrastructure Security Agency, using automa-
23 tion and machine-readable data to the greatest extent
24 practicable.

1 (d) BRIEFING.—Not later than 60 days after the date
2 on which the Director issues guidance under subsection
3 (a)(2), the Director, in coordination with the Director of
4 the Cybersecurity and Infrastructure Security Agency,
5 shall provide to the appropriate congressional committees
6 a briefing on the guidance.

7 **SEC. 109. DATA AND LOGGING RETENTION FOR INCIDENT**
8 **RESPONSE.**

9 (a) RECOMMENDATIONS.—Not later than 2 years
10 after the date of enactment of this Act, and not less fre-
11 quently than every 2 years thereafter, the Director of the
12 Cybersecurity and Infrastructure Security Agency, in con-
13 sultation with the Attorney General, shall submit to the
14 Director recommendations on requirements for logging
15 events on agency systems and retaining other relevant
16 data within the systems and networks of an agency.

17 (b) CONTENTS.—The recommendations provided
18 under subsection (a) shall include—

- 19 (1) the types of logs to be maintained;
- 20 (2) the duration that logs and other relevant
21 data should be retained;
- 22 (3) the time periods for agency implementation
23 of recommended logging and security requirements;
- 24 (4) how to ensure the confidentiality, integrity,
25 and availability of logs;

1 (5) requirements to ensure that, upon request,
2 in a manner that excludes or otherwise reasonably
3 protects personally identifiable information, and to
4 the extent permitted by applicable law (including
5 privacy and statistical laws), agencies provide logs
6 to—

7 (A) the Director of the Cybersecurity and
8 Infrastructure Security Agency for a cybersecu-
9 rity purpose; and

10 (B) the Director of the Federal Bureau of
11 Investigation, or the appropriate Federal law
12 enforcement agency, to investigate potential
13 criminal activity; and

14 (6) requirements to ensure that, subject to com-
15 pliance with statistical laws and other relevant data
16 protection requirements, the highest level security
17 operations center of each agency has visibility into
18 all agency logs.

19 (c) GUIDANCE.—Not later than 90 days after receiv-
20 ing the recommendations submitted under subsection (a),
21 the Director, in consultation with the Director of the Cy-
22 bersecurity and Infrastructure Security Agency and the
23 Attorney General, shall, as determined to be appropriate
24 by the Director, update guidance to agencies regarding re-
25 quirements for logging, log retention, log management,

1 sharing of log data with other appropriate agencies, or any
2 other logging activity determined to be appropriate by the
3 Director.

4 (d) SUNSET.—This section shall cease to have force
5 or effect on the date that is 10 years after the date of
6 the enactment of this Act.

7 **SEC. 110. CISA AGENCY ADVISORS.**

8 (a) IN GENERAL.—Not later than 120 days after the
9 date of enactment of this Act, the Director of the Cyberse-
10 curity and Infrastructure Security Agency shall assign not
11 less than 1 cybersecurity professional employed by the Cy-
12 bersecurity and Infrastructure Security Agency to be the
13 Cybersecurity and Infrastructure Security Agency advisor
14 to the senior agency information security officer of each
15 agency.

16 (b) QUALIFICATIONS.—Each advisor assigned under
17 subsection (a) shall have knowledge of—

18 (1) cybersecurity threats facing agencies, in-
19 cluding any specific threats to the assigned agency;

20 (2) performing risk assessments of agency sys-
21 tems; and

22 (3) other Federal cybersecurity initiatives.

23 (c) DUTIES.—The duties of each advisor assigned
24 under subsection (a) shall include—

1 (1) providing ongoing assistance and advice, as
2 requested, to the agency Chief Information Officer;

3 (2) serving as an incident response point of
4 contact between the assigned agency and the Cyber-
5 security and Infrastructure Security Agency; and

6 (3) familiarizing themselves with agency sys-
7 tems, processes, and procedures to better facilitate
8 support to the agency in responding to incidents.

9 (d) **LIMITATION.**—An advisor assigned under sub-
10 section (a) shall not be a contractor.

11 (e) **MULTIPLE ASSIGNMENTS.**—One individual advi-
12 sor may be assigned to multiple agency Chief Information
13 Officers under subsection (a).

14 **SEC. 111. FEDERAL PENETRATION TESTING POLICY.**

15 (a) **IN GENERAL.**—Subchapter II of chapter 35 of
16 title 44, United States Code, is amended by adding at the
17 end the following:

18 **“§ 3559A. Federal penetration testing**

19 “(a) **DEFINITIONS.**—In this section:

20 “(1) **AGENCY OPERATIONAL PLAN.**—The term
21 ‘agency operational plan’ means a plan of an agency
22 for the use of penetration testing.

23 “(2) **RULES OF ENGAGEMENT.**—The term
24 ‘rules of engagement’ means a set of rules estab-

1 lished by an agency for the use of penetration test-
2 ing.

3 “(b) GUIDANCE.—

4 “(1) IN GENERAL.—The Director, in consulta-
5 tion with the Secretary, acting through the Director
6 of the Cybersecurity and Infrastructure Security
7 Agency, shall issue guidance to agencies that—

8 “(A) requires agencies to use, when and
9 where appropriate, penetration testing on agen-
10 cy systems by both Federal and non-Federal en-
11 tities; and

12 “(B) requires agencies to develop an agen-
13 cy operational plan and rules of engagement
14 that meet the requirements under subsection
15 (c).

16 “(2) PENETRATION TESTING GUIDANCE.—The
17 guidance issued under this section shall—

18 “(A) permit an agency to use, for the pur-
19 pose of performing penetration testing—

20 “(i) a shared service of the agency or
21 another agency; or

22 “(ii) an external entity, such as a ven-
23 dor; and

24 “(B) require agencies to provide the rules
25 of engagement and results of penetration test-

1 ing to the Director and the Director of the Cy-
2 bersecurity and Infrastructure Security Agency,
3 without regard to the status of the entity that
4 performs the penetration testing.

5 “(c) AGENCY PLANS AND RULES OF ENGAGE-
6 MENT.—The agency operational plan and rules of engage-
7 ment of an agency shall—

8 “(1) require the agency to—

9 “(A) perform penetration testing, including
10 on the high value assets of the agency; or

11 “(B) coordinate with the Director of the
12 Cybersecurity and Infrastructure Security
13 Agency to ensure that penetration testing is
14 being performed;

15 “(2) establish guidelines for avoiding, as a re-
16 sult of penetration testing—

17 “(A) adverse impacts to the operations of
18 the agency;

19 “(B) adverse impacts to operational envi-
20 ronments and systems of the agency; and

21 “(C) inappropriate access to data;

22 “(3) require the results of penetration testing
23 to include feedback to improve the cybersecurity of
24 the agency; and

1 “(4) include mechanisms for providing consist-
2 ently formatted, and, if applicable, automated and
3 machine-readable, data to the Director and the Di-
4 rector of the Cybersecurity and Infrastructure Secu-
5 rity Agency.

6 “(d) RESPONSIBILITIES OF CISA.—The Director of
7 the Cybersecurity and Infrastructure Security Agency
8 shall—

9 “(1) establish a process to assess the perform-
10 ance of penetration testing by both Federal and non-
11 Federal entities that establishes minimum quality
12 controls for penetration testing;

13 “(2) develop operational guidance for insti-
14 tuting penetration testing programs at agencies;

15 “(3) develop and maintain a centralized capa-
16 bility to offer penetration testing as a service to
17 Federal and non-Federal entities; and

18 “(4) provide guidance to agencies on the best
19 use of penetration testing resources.

20 “(e) RESPONSIBILITIES OF OMB.—The Director, in
21 coordination with the Director of the Cybersecurity and
22 Infrastructure Security Agency, shall—

23 “(1) not less frequently than annually, inven-
24 tory all Federal penetration testing assets; and

1 “(2) develop and maintain a standardized proc-
2 ess for the use of penetration testing.

3 “(f) PRIORITIZATION OF PENETRATION TESTING RE-
4 SOURCES.—

5 “(1) IN GENERAL.—The Director, in coordina-
6 tion with the Director of the Cybersecurity and In-
7 frastructure Security Agency, shall develop a frame-
8 work for prioritizing Federal penetration testing re-
9 sources among agencies.

10 “(2) CONSIDERATIONS.—In developing the
11 framework under this subsection, the Director shall
12 consider—

13 “(A) agency system risk assessments per-
14 formed under section 3554(a)(1)(A);

15 “(B) the Federal risk assessment per-
16 formed under section 3553(i);

17 “(C) the analysis of Federal incident data
18 performed under section 3597; and

19 “(D) any other information determined ap-
20 propriate by the Director or the Director of the
21 Cybersecurity and Infrastructure Security
22 Agency.

23 “(g) EXCEPTION FOR NATIONAL SECURITY SYS-
24 TEMS.—The guidance issued under subsection (b) shall
25 not apply to national security systems.

1 “(h) DELEGATION OF AUTHORITY FOR CERTAIN
2 SYSTEMS.—The authorities of the Director described in
3 subsection (b) shall be delegated—

4 “(1) to the Secretary of Defense in the case of
5 systems described in section 3553(e)(2); and

6 “(2) to the Director of National Intelligence in
7 the case of systems described in 3553(e)(3).”.

8 (b) DEADLINE FOR GUIDANCE.—Not later than 180
9 days after the date of enactment of this Act, the Director
10 shall issue the guidance required under section 3559A(b)
11 of title 44, United States Code, as added by subsection
12 (a).

13 (c) CLERICAL AMENDMENT.—The table of sections
14 for chapter 35 of title 44, United States Code, is amended
15 by adding after the item relating to section 3559 the fol-
16 lowing:

 “3559A. Federal penetration testing.”.

17 (d) SUNSET.—

18 (1) IN GENERAL.—Effective on the date that is
19 10 years after the date of enactment of this Act,
20 subchapter II of chapter 35 of title 44, United
21 States Code, is amended by striking section 3559A.

22 (2) CLERICAL AMENDMENT.—Effective on the
23 date that is 10 years after the date of enactment of
24 this Act, the table of sections for chapter 35 of title

1 44, United States Code, is amended by striking the
2 item relating to section 3559A.

3 **SEC. 112. ONGOING THREAT HUNTING PROGRAM.**

4 (a) THREAT HUNTING PROGRAM.—

5 (1) IN GENERAL.—Not later than 540 days
6 after the date of enactment of this Act, the Director
7 of the Cybersecurity and Infrastructure Security
8 Agency shall establish a program to provide ongoing,
9 hypothesis-driven threat-hunting services on the net-
10 work of each agency.

11 (2) PLAN.—Not later than 180 days after the
12 date of enactment of this Act, the Director of the
13 Cybersecurity and Infrastructure Security Agency
14 shall develop a plan to establish the program re-
15 quired under paragraph (1) that describes how the
16 Director of the Cybersecurity and Infrastructure Se-
17 curity Agency plans to—

18 (A) determine the method for collecting,
19 storing, accessing, analyzing, and safeguarding
20 appropriate agency data;

21 (B) provide on-premises support to agen-
22 cies;

23 (C) staff threat hunting services;

24 (D) allocate available human and financial
25 resources to implement the plan; and

1 (E) provide input to the heads of agencies
2 on the use of—

3 (i) more stringent standards under
4 section 11331(c)(1) of title 40, United
5 States Code; and

6 (ii) additional cybersecurity proce-
7 dures under section 3554 of title 44,
8 United States Code.

9 (b) REPORTS.—The Director of the Cybersecurity
10 and Infrastructure Security Agency shall submit to the ap-
11 propriate congressional committees—

12 (1) not later than 30 days after the date on
13 which the Director of the Cybersecurity and Infra-
14 structure Security Agency completes the plan re-
15 quired under subsection (a)(2), a report on the plan
16 to provide threat hunting services to agencies;

17 (2) not less than 30 days before the date on
18 which the Director of the Cybersecurity and Infra-
19 structure Security Agency begins providing threat
20 hunting services under the program under sub-
21 section (a)(1), a report providing any updates to the
22 plan developed under subsection (a)(2); and

23 (3) not later than 1 year after the date on
24 which the Director of the Cybersecurity and Infra-
25 structure Security Agency begins providing threat

1 hunting services to agencies other than the Cyberse-
2 curity and Infrastructure Security Agency, a report
3 describing lessons learned from providing those serv-
4 ices.

5 **SEC. 113. CODIFYING VULNERABILITY DISCLOSURE PRO-**
6 **GRAMS.**

7 (a) IN GENERAL.—Chapter 35 of title 44, United
8 States Code, is amended by inserting after section 3559A,
9 as added by section 111 of this title, the following:

10 **“§ 3559B. Federal vulnerability disclosure programs**

11 “(a) PURPOSE; SENSE OF CONGRESS.—

12 “(1) PURPOSE.—The purpose of Federal vul-
13 nerability disclosure programs is to create a mecha-
14 nism to use the expertise of the public to provide a
15 service to Federal agencies by identifying informa-
16 tion system vulnerabilities.

17 “(2) SENSE OF CONGRESS.—It is the sense of
18 Congress that, in implementing the requirements of
19 this section, the Federal Government should take
20 appropriate steps to reduce real and perceived bur-
21 dens in communications between agencies and secu-
22 rity researchers.

23 “(b) DEFINITIONS.—In this section:

1 “(1) REPORT.—The term ‘report’ means a vul-
2 nerability disclosure made to an agency by a re-
3 porter.

4 “(2) REPORTER.—The term ‘reporter’ means
5 an individual that submits a vulnerability report
6 pursuant to the vulnerability disclosure process of an
7 agency.

8 “(c) RESPONSIBILITIES OF OMB.—

9 “(1) LIMITATION ON LEGAL ACTION.—The Di-
10 rector, in consultation with the Attorney General,
11 shall issue guidance to agencies to not recommend or
12 pursue legal action against a reporter or an indi-
13 vidual that conducts a security research activity that
14 the head of the agency determines—

15 “(A) represents a good faith effort to fol-
16 low the vulnerability disclosure policy of the
17 agency developed under subsection (e)(2); and

18 “(B) is authorized under the vulnerability
19 disclosure policy of the agency developed under
20 subsection (e)(2).

21 “(2) SHARING INFORMATION WITH CISA.—The
22 Director, in coordination with the Director of the
23 Cybersecurity and Infrastructure Security Agency
24 and in consultation with the National Cyber Direc-
25 tor, shall issue guidance to agencies on sharing rel-

1 evant information in a consistent, automated, and
2 machine readable manner with the Director of the
3 Cybersecurity and Infrastructure Security Agency,
4 including—

5 “(A) any valid or credible reports of newly
6 discovered or not publicly known vulnerabilities
7 (including misconfigurations) on Federal infor-
8 mation systems that use commercial software or
9 services;

10 “(B) information relating to vulnerability
11 disclosure, coordination, or remediation activi-
12 ties of an agency, particularly as those activities
13 relate to outside organizations—

14 “(i) with which the head of the agency
15 believes the Director of the Cybersecurity
16 and Infrastructure Security Agency can as-
17 sist; or

18 “(ii) about which the head of the
19 agency believes the Director of the Cyber-
20 security and Infrastructure Security Agen-
21 cy should know; and

22 “(C) any other information with respect to
23 which the head of the agency determines helpful
24 or necessary to involve the Director of the Cy-
25 bersecurity and Infrastructure Security Agency.

1 “(3) AGENCY VULNERABILITY DISCLOSURE
2 POLICIES.—The Director shall issue guidance to
3 agencies on the required minimum scope of agency
4 systems covered by the vulnerability disclosure policy
5 of an agency required under subsection (e)(2).

6 “(d) RESPONSIBILITIES OF CISA.—The Director of
7 the Cybersecurity and Infrastructure Security Agency
8 shall—

9 “(1) provide support to agencies with respect to
10 the implementation of the requirements of this sec-
11 tion;

12 “(2) develop tools, processes, and other mecha-
13 nisms determined appropriate to offer agencies capa-
14 bilities to implement the requirements of this sec-
15 tion; and

16 “(3) upon a request by an agency, assist the
17 agency in the disclosure to vendors of newly identi-
18 fied vulnerabilities in vendor products and services.

19 “(e) RESPONSIBILITIES OF AGENCIES.—

20 “(1) PUBLIC INFORMATION.—The head of each
21 agency shall make publicly available, with respect to
22 each internet domain under the control of the agen-
23 cy that is not a national security system—

24 “(A) an appropriate security contact; and

1 “(B) the component of the agency that is
2 responsible for the internet accessible services
3 offered at the domain.

4 “(2) VULNERABILITY DISCLOSURE POLICY.—
5 The head of each agency shall develop and make
6 publicly available a vulnerability disclosure policy for
7 the agency, which shall—

8 “(A) describe—

9 “(i) the scope of the systems of the
10 agency included in the vulnerability disclo-
11 sure policy;

12 “(ii) the type of information system
13 testing that is authorized by the agency;

14 “(iii) the type of information system
15 testing that is not authorized by the agen-
16 cy; and

17 “(iv) the disclosure policy of the agen-
18 cy for sensitive information;

19 “(B) with respect to a report to an agency,
20 describe—

21 “(i) how the reporter should submit
22 the report; and

23 “(ii) if the report is not anonymous,
24 when the reporter should anticipate an ac-

1 knowledge of receipt of the report by
2 the agency;

3 “(C) include any other relevant informa-
4 tion; and

5 “(D) be mature in scope and cover every
6 internet accessible Federal information system
7 used or operated by that agency or on behalf of
8 that agency.

9 “(3) IDENTIFIED VULNERABILITIES.—The head
10 of each agency shall incorporate any vulnerabilities
11 reported under paragraph (2) into the vulnerability
12 management process of the agency in order to track
13 and remediate the vulnerability.

14 “(f) CONGRESSIONAL REPORTING.—Not later than
15 90 days after the date of enactment of the Federal Infor-
16 mation Security Modernization Act of 2022, and annually
17 thereafter for a 3-year period, the Director of the Cyberse-
18 curity and Infrastructure Security Agency, in consultation
19 with the Director, shall provide to the Committee on
20 Homeland Security and Governmental Affairs of the Sen-
21 ate and the Committee on Oversight and Reform of the
22 House of Representatives a briefing on the status of the
23 use of vulnerability disclosure policies under this section
24 at agencies, including, with respect to the guidance issued

1 under subsection (c)(3), an identification of the agencies
2 that are compliant and not compliant.

3 “(g) EXEMPTIONS.—The authorities and functions of
4 the Director and Director of the Cybersecurity and Infra-
5 structure Security Agency under this section shall not
6 apply to national security systems.

7 “(h) DELEGATION OF AUTHORITY FOR CERTAIN
8 SYSTEMS.—The authorities of the Director and the Direc-
9 tor of the Cybersecurity and Infrastructure Security Agen-
10 cy described in this section shall be delegated—

11 “(1) to the Secretary of Defense in the case of
12 systems described in section 3553(e)(2); and

13 “(2) to the Director of National Intelligence in
14 the case of systems described in section
15 3553(e)(3).”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 35 of title 44, United States Code, is amended
18 by adding after the item relating to section 3559A, as
19 added by section 111, the following:

“3559B. Federal vulnerability disclosure programs.”.

20 (c) SUNSET.—

21 (1) IN GENERAL.—Effective on the date that is
22 10 years after the date of enactment of this Act,
23 subchapter II of chapter 35 of title 44, United
24 States Code, is amended by striking section 3559B.

1 (2) CLERICAL AMENDMENT.—Effective on the
2 date that is 10 years after the date of enactment of
3 this Act, the table of sections for chapter 35 of title
4 44, United States Code, is amended by striking the
5 item relating to section 3559B.

6 **SEC. 114. IMPLEMENTING ZERO TRUST ARCHITECTURE.**

7 (a) GUIDANCE.—Not later than 18 months after the
8 date of enactment of this Act, the Director shall provide
9 an update to the appropriate congressional committees on
10 progress in increasing the internal defenses of agency sys-
11 tems, including—

12 (1) shifting away from “trusted networks” to
13 implement security controls based on a presumption
14 of compromise;

15 (2) implementing principles of least privilege in
16 administering information security programs;

17 (3) limiting the ability of entities that cause in-
18 cidents to move laterally through or between agency
19 systems;

20 (4) identifying incidents quickly;

21 (5) isolating and removing unauthorized entities
22 from agency systems as quickly as practicable, ac-
23 counting for intelligence or law enforcement pur-
24 poses;

1 (6) otherwise increasing the resource costs for
2 entities that cause incidents to be successful; and

3 (7) a summary of the agency progress reports
4 required under subsection (b).

5 (b) AGENCY PROGRESS REPORTS.—Not later than
6 270 days after the date of enactment of this Act, the head
7 of each agency shall submit to the Director a progress re-
8 port on implementing an information security program
9 based on the presumption of compromise and least privi-
10 lege principles, which shall include—

11 (1) a description of any steps the agency has
12 completed, including progress toward achieving re-
13 quirements issued by the Director, including the
14 adoption of any models or reference architecture;

15 (2) an identification of activities that have not
16 yet been completed and that would have the most
17 immediate security impact; and

18 (3) a schedule to implement any planned activi-
19 ties.

20 **SEC. 115. AUTOMATION REPORTS.**

21 (a) OMB REPORT.—Not later than 180 days after
22 the date of enactment of this Act, the Director shall pro-
23 vide to the appropriate congressional committees an up-
24 date on the use of automation under paragraphs (1),

1 (5)(C), and (8)(B) of section 3554(b) of title 44, United
2 States Code.

3 (b) GAO REPORT.—Not later than 1 year after the
4 date of enactment of this Act, the Comptroller General
5 of the United States shall perform a study on the use of
6 automation and machine readable data across the Federal
7 Government for cybersecurity purposes, including the
8 automated updating of cybersecurity tools, sensors, or
9 processes by agencies.

10 **SEC. 116. EXTENSION OF FEDERAL ACQUISITION SECURITY**
11 **COUNCIL AND SOFTWARE INVENTORY.**

12 (a) EXTENSION.—Section 1328 of title 41, United
13 States Code, is amended by striking “the date that” and
14 all that follows and inserting “December 31, 2026.”.

15 (b) REQUIREMENT.—Subsection 1326(b) of title 41,
16 United States Code, is amended—

17 (1) in paragraph (5), by striking “and” at the
18 end;

19 (2) by redesignating paragraph (6) as para-
20 graph (7); and

21 (3) by inserting after paragraph (5) the fol-
22 lowing:

23 “(6) maintaining an up-to-date and accurate in-
24 ventory of software in use by the agency and, if
25 available and applicable, the components of such

1 software, that can be communicated at the request
2 of the Federal Acquisition Security Council, the Na-
3 tional Cyber Director, or the Secretary of Homeland
4 Security, acting through the Director of Cybersecu-
5 rity and Infrastructure Security Agency; and”.

6 **SEC. 117. COUNCIL OF THE INSPECTORS GENERAL ON IN-**
7 **TEGRITY AND EFFICIENCY DASHBOARD.**

8 (a) DASHBOARD REQUIRED.—Section 11(e)(2) of the
9 Inspector General Act of 1978 (5 U.S.C. App.) is amend-
10 ed—

11 (1) in subparagraph (A), by striking “and” at
12 the end;

13 (2) by redesignating subparagraph (B) as sub-
14 paragraph (C); and

15 (3) by inserting after subparagraph (A) the fol-
16 lowing:

17 “(B) that shall include a dashboard of
18 open information security recommendations
19 identified in the independent evaluations re-
20 quired by section 3555(a) of title 44, United
21 States Code; and”.

22 **SEC. 118. QUANTITATIVE CYBERSECURITY METRICS.**

23 (a) DEFINITION OF COVERED METRICS.—In this sec-
24 tion, the term “covered metrics” means the metrics estab-

1 lished, reviewed, and updated under section 224(c) of the
2 Cybersecurity Act of 2015 (6 U.S.C. 1522(c)).

3 (b) UPDATING AND ESTABLISHING METRICS.—Not
4 later than 1 year after the date of enactment of this Act,
5 and as appropriate thereafter, the Director of the Cyberse-
6 curity and Infrastructure Security Agency, in coordination
7 with the Director, shall—

8 (1) evaluate any covered metrics established as
9 of the date of enactment of this Act; and

10 (2) as appropriate and pursuant to section
11 224(c) of the Cybersecurity Act of 2015 (6 U.S.C.
12 1522(c)) update or establish new covered metrics.

13 (c) IMPLEMENTATION.—

14 (1) IN GENERAL.—Not later than 540 days
15 after the date of enactment of this Act, the Director,
16 in coordination with the Director of the Cybersecu-
17 rity and Infrastructure Security Agency, shall pro-
18 mulgate guidance that requires each agency to use
19 covered metrics to track trends in the cybersecurity
20 and incident response capabilities of the agency.

21 (2) PERFORMANCE DEMONSTRATION.—The
22 guidance issued under paragraph (1) and any subse-
23 quent guidance shall require agencies to share with
24 the Director of the Cybersecurity and Infrastructure
25 Security Agency data demonstrating the perform-

1 ance of the agency using the covered metrics in-
2 cluded in the guidance.

3 (3) PENETRATION TESTS.—On not less than 2
4 occasions during the 2-year period following the date
5 on which guidance is promulgated under paragraph
6 (1), the Director shall ensure that not less than 3
7 agencies are subjected to substantially similar pene-
8 tration tests, as determined by the Director, in co-
9 ordination with the Director of the Cybersecurity
10 and Infrastructure Security Agency, in order to vali-
11 date the utility of the covered metrics.

12 (4) ANALYSIS CAPACITY.—The Director of the
13 Cybersecurity and Infrastructure Security Agency
14 shall develop a capability that allows for the analysis
15 of the covered metrics, including cross-agency per-
16 formance of agency cybersecurity and incident re-
17 sponse capability trends.

18 (5) TIME-BASED METRIC.—With respect the
19 first update or establishment of covered metrics re-
20 quired under subsection (b)(2), the Director of the
21 Cybersecurity and Infrastructure Security Agency
22 shall establish covered metrics that include not less
23 than 1 metric addressing the time it takes for agen-
24 cies to identify and respond to incidents.

1 (d) CONGRESSIONAL REPORTS.—Not later than 1
2 year after the date of enactment of this Act, the Director
3 of the Cybersecurity and Infrastructure Security Agency,
4 in coordination with the Director, shall submit to the ap-
5 propriate congressional committees a report on the utility
6 and use of the covered metrics.

7 **SEC. 119. ESTABLISHMENT OF RISK-BASED BUDGET**
8 **MODEL.**

9 (a) DEFINITIONS.—In this section:

10 (1) APPROPRIATE CONGRESSIONAL COMMIT-
11 TEES.—The term “appropriate congressional com-
12 mittees” means—

13 (A) the Committee on Homeland Security
14 and Governmental Affairs and the Committee
15 on Appropriations of the Senate; and

16 (B) the Committee on Oversight and Re-
17 form, the Committee on Homeland Security,
18 and the Committee on Appropriations of the
19 House of Representatives.

20 (2) COVERED AGENCY.—The term “covered
21 agency” has the meaning given the term “executive
22 agency” in section 133 of title 41, United States
23 Code.

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

4 (4) INFORMATION TECHNOLOGY.—The term
5 “information technology”—

6 (A) has the meaning given the term in sec-
7 tion 11101 of title 40, United States Code; and

8 (B) includes the hardware and software
9 systems of a Federal agency that monitor and
10 control physical equipment and processes of the
11 Federal agency.

12 (5) RISK-BASED BUDGET.—The term “risk-
13 based budget” means a budget—

14 (A) developed by identifying and
15 prioritizing cybersecurity risks and
16 vulnerabilities, including impact on agency oper-
17 ations in the case of a cyber attack, through
18 analysis of cyber threat intelligence, incident
19 data, and tactics, techniques, procedures, and
20 capabilities of cyber threats; and

21 (B) that allocates resources based on the
22 risks identified and prioritized under subpara-
23 graph (A).

24 (b) ESTABLISHMENT OF RISK-BASED BUDGET
25 MODEL.—

1 (1) IN GENERAL.—

2 (A) MODEL.—Not later than 1 year after
3 the first publication of the budget submitted by
4 the President under section 1105 of title 31,
5 United States Code, following the date of enact-
6 ment of this Act, the Director, in consultation
7 with the Director of the Cybersecurity and In-
8 frastructure Security Agency and the National
9 Cyber Director and in coordination with the Di-
10 rector of the National Institute of Standards
11 and Technology, shall develop a standard model
12 for informing a risk-based budget for cybersecu-
13 rity spending.

14 (B) RESPONSIBILITY OF DIRECTOR.—Sec-
15 tion 3553(a) of title 44, United States Code, as
16 amended by section 103 of this title, is further
17 amended by inserting after paragraph (6) the
18 following:

19 “(7) developing a standard risk-based budget
20 model to inform Federal agency cybersecurity budget
21 development; and”.

22 (C) CONTENTS OF MODEL.—The model re-
23 quired to be developed under subparagraph (A)
24 shall utilize appropriate information to evaluate

1 risk, including, as determined appropriate by
2 the Director—

3 (i) Federal and non-Federal cyber
4 threat intelligence products, where avail-
5 able, to identify threats, vulnerabilities,
6 and risks;

7 (ii) analysis of the impact of agency
8 operations of compromise of systems, in-
9 cluding the interconnectivity to other agen-
10 cy systems and the operations of other
11 agencies; and

12 (iii) to the greatest extent practicable,
13 analysis of where resources should be allo-
14 cated to have the greatest impact on miti-
15 gating current and future threats and cur-
16 rent and future cybersecurity capabilities.

17 (D) USE OF MODEL.—The model required
18 to be developed under subparagraph (A) shall
19 be used to—

20 (i) inform acquisition and sustainment
21 of—

22 (I) information technology and
23 cybersecurity tools;

24 (II) information technology and
25 cybersecurity architectures;

1 (III) information technology and
2 cybersecurity personnel; and

3 (IV) cybersecurity and informa-
4 tion technology concepts of operations;
5 and

6 (ii) evaluate and inform Government-
7 wide cybersecurity programs.

8 (E) MODEL VARIATION.—The Director
9 may develop multiple models under subpara-
10 graph (A) based on different agency character-
11 istics, such as size or cybersecurity maturity.

12 (F) REQUIRED UPDATES.—Not less fre-
13 quently than once every 3 years, the Director
14 shall review, and update as necessary, the
15 model required to be developed under subpara-
16 graph (A).

17 (G) PUBLICATION.—Not earlier than 5
18 years after the date on which the model devel-
19 oped under subparagraph (A) is completed, the
20 Director shall, taking into account any classi-
21 fied or sensitive information, publish the model,
22 and any updates necessary under subparagraph
23 (F), on the public website of the Office of Man-
24 agement and Budget.

1 (H) REPORTS.—Not later than 2 years
2 after the first publication of the budget sub-
3 mitted by the President under section 1105 of
4 title 31, United States Code, following the date
5 of enactment of this Act, and annually there-
6 after for each of the 2 following fiscal years or
7 until the date on which the model required to
8 be developed under subparagraph (A) is com-
9 pleted, whichever is sooner, the Director shall
10 submit to the appropriate congressional com-
11 mittees a report on the development of the
12 model.

13 (2) PHASED IMPLEMENTATION OF RISK-BASED
14 BUDGET MODEL.—

15 (A) INITIAL PHASE.—

16 (i) IN GENERAL.—Not later than 2
17 years after the date on which the model
18 developed under paragraph (1) is com-
19 pleted, the Director shall require not less
20 than 5 covered agencies to use the model
21 to inform the development of the annual
22 cybersecurity and information technology
23 budget requests of those covered agencies.

24 (ii) BRIEFING.—Not later than 1 year
25 after the date on which the covered agen-

1 cies selected under clause (i) begin using
2 the model developed under paragraph (1),
3 the Director shall provide to the appro-
4 priate congressional committees a briefing
5 on implementation of risk-based budgeting
6 for cybersecurity spending, an assessment
7 of agency implementation, and an evalua-
8 tion of whether the risk-based budget helps
9 to mitigate cybersecurity vulnerabilities.

10 (B) FULL DEPLOYMENT.—Not later than
11 5 years after the date on which the model devel-
12 oped under paragraph (1) is completed, the
13 head of each covered agency shall use the
14 model, or any updated model pursuant to para-
15 graph (1)(F), to the greatest extent practicable,
16 to inform the development of the annual cyber-
17 security and information technology budget re-
18 quests of the covered agency.

19 (C) AGENCY PERFORMANCE PLANS.—

20 (i) AMENDMENT.—Section 3554(d)(2)
21 of title 44, United States Code, is amended
22 by inserting “and the risk-based budget
23 model required under section 3553(a)(7)”
24 after “paragraph (1)”.

1 (ii) EFFECTIVE DATE.—The amend-
2 ment made by clause (i) shall take effect
3 on the date that is 5 years after the date
4 on which the model developed under para-
5 graph (1) is completed.

6 (3) VERIFICATION.—

7 (A) IN GENERAL.—Section
8 1105(a)(35)(A)(i) of title 31, United States
9 Code, is amended—

10 (i) in the matter preceding subclause
11 (I), by striking “by agency, and by initia-
12 tive area (as determined by the administra-
13 tion)” and inserting “and by agency”;

14 (ii) in subclause (III), by striking
15 “and” at the end; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(V) a validation that the budg-
19 ets submitted were informed by using
20 a risk-based methodology; and

21 “(VI) a report on the progress of
22 each agency on closing recommenda-
23 tions identified under the independent
24 evaluation required by section
25 3555(a)(1) of title 44.”.

1 (B) EFFECTIVE DATE.—The amendments
2 made by subparagraph (A) shall take effect on
3 the date that is 5 years after the date on which
4 the model developed under paragraph (1) is
5 completed.

6 (4) REPORTS.—

7 (A) INDEPENDENT EVALUATION.—Section
8 3555(a)(2) of title 44, United States Code, is
9 amended—

10 (i) in subparagraph (B), by striking
11 “and” at the end;

12 (ii) in subparagraph (C), by striking
13 the period at the end and inserting “;
14 and”; and

15 (iii) by adding at the end the fol-
16 lowing:

17 “(D) an assessment of how the agency was
18 informed by the risk-based budget model re-
19 quired under section 3553(a)(7) and an evalua-
20 tion of whether the model mitigates agency
21 cyber vulnerabilities.”.

22 (B) ASSESSMENT.—

23 (i) AMENDMENT.—Section 3553(e) of
24 title 44, United States Code, as amended
25 by section 103 of this title, is further

1 amended by inserting after paragraph (5)
2 the following:

3 “(6) an assessment of—

4 “(A) Federal agency utilization of the
5 model required under subsection (a)(7); and

6 “(B) whether the model mitigates the
7 cyber vulnerabilities of the Federal Govern-
8 ment.”.

9 (ii) EFFECTIVE DATE.—The amend-
10 ment made by clause (i) shall take effect
11 on the date that is 5 years after the date
12 on which the model developed under para-
13 graph (1) is completed.

14 (5) GAO REPORT.—Not later than 3 years
15 after the date on which the first budget of the Presi-
16 dent is submitted to Congress containing the valida-
17 tion required under section 1105(a)(35)(A)(i)(V) of
18 title 31, United States Code, as amended by para-
19 graph (3), the Comptroller General of the United
20 States shall submit to the appropriate congressional
21 committees a report that includes—

22 (A) an evaluation of the success of covered
23 agencies in utilizing the risk-based budget
24 model;

1 (B) an evaluation of the success of covered
2 agencies in implementing risk-based budgets;

3 (C) an evaluation of whether the risk-based
4 budgets developed by covered agencies are effec-
5 tive at informing Federal Government-wide cy-
6 bersecurity programs; and

7 (D) any other information relating to risk-
8 based budgets the Comptroller General deter-
9 mines appropriate.

10 **SEC. 120. ACTIVE CYBER DEFENSIVE STUDY.**

11 (a) DEFINITION.—In this section, the term “active
12 defense technique”—

13 (1) means an action taken on the systems of an
14 entity to increase the security of information on the
15 network of an agency by misleading an adversary;
16 and

17 (2) includes a honeypot, deception, or purpose-
18 fully feeding false or misleading data to an adver-
19 sary when the adversary is on the systems of the en-
20 tity.

21 (b) STUDY.—Not later than 180 days after the date
22 of enactment of this Act, the Director of the Cybersecurity
23 and Infrastructure Security Agency, in coordination with
24 the Director and the National Cyber Director, shall per-

1 form a study on the use of active defense techniques to
2 enhance the security of agencies, which shall include—

3 (1) a review of legal restrictions on the use of
4 different active cyber defense techniques in Federal
5 environments, in consultation with the Department
6 of Justice;

7 (2) an evaluation of—

8 (A) the efficacy of a selection of active de-
9 fense techniques determined by the Director of
10 the Cybersecurity and Infrastructure Security
11 Agency; and

12 (B) factors that impact the efficacy of the
13 active defense techniques evaluated under sub-
14 paragraph (A);

15 (3) recommendations on safeguards and proce-
16 dures that shall be established to require that active
17 defense techniques are adequately coordinated to en-
18 sure that active defense techniques do not impede
19 agency operations and mission delivery, threat re-
20 sponse efforts, criminal investigations, and national
21 security activities, including intelligence collection;
22 and

23 (4) the development of a framework for the use
24 of different active defense techniques by agencies.

1 **SEC. 121. SECURITY OPERATIONS CENTER AS A SERVICE**
2 **PILOT.**

3 (a) **PURPOSE.**—The purpose of this section is for the
4 Cybersecurity and Infrastructure Security Agency to run
5 a security operation center on behalf of another agency,
6 alleviating the need to duplicate this function at every
7 agency, and empowering a greater centralized cybersecu-
8 rity capability.

9 (b) **PLAN.**—Not later than 1 year after the date of
10 enactment of this Act, the Director of the Cybersecurity
11 and Infrastructure Security Agency shall develop a plan
12 to establish a centralized Federal security operations cen-
13 ter shared service offering within the Cybersecurity and
14 Infrastructure Security Agency.

15 (c) **CONTENTS.**—The plan required under subsection
16 (b) shall include considerations for—

17 (1) collecting, organizing, and analyzing agency
18 information system data in real time;

19 (2) staffing and resources; and

20 (3) appropriate interagency agreements, con-
21 cepts of operations, and governance plans.

22 (d) **PILOT PROGRAM.**—

23 (1) **IN GENERAL.**—Not later than 180 days
24 after the date on which the plan required under sub-
25 section (b) is developed, the Director of the Cyberse-
26 curity and Infrastructure Security Agency, in con-

1 sultation with the Director, shall enter into a 1-year
2 agreement with not less than 2 agencies to offer a
3 security operations center as a shared service.

4 (2) ADDITIONAL AGREEMENTS.—After the date
5 on which the briefing required under subsection
6 (e)(1) is provided, the Director of the Cybersecurity
7 and Infrastructure Security Agency, in consultation
8 with the Director, may enter into additional 1-year
9 agreements described in paragraph (1) with agen-
10 cies.

11 (e) BRIEFING AND REPORT.—

12 (1) BRIEFING.—Not later than 270 days after
13 the date of enactment of this Act, the Director of
14 the Cybersecurity and Infrastructure Security Agen-
15 cy shall provide to the Committee on Homeland Se-
16 curity and Governmental Affairs of the Senate and
17 the Committee on Homeland Security and the Com-
18 mittee on Oversight and Reform of the House of
19 Representatives a briefing on the parameters of any
20 1-year agreements entered into under subsection
21 (d)(1).

22 (2) REPORT.—Not later than 90 days after the
23 date on which the first 1-year agreement entered
24 into under subsection (d) expires, the Director of the
25 Cybersecurity and Infrastructure Security Agency

1 shall submit to the Committee on Homeland Secu-
2 rity and Governmental Affairs of the Senate and the
3 Committee on Homeland Security and the Com-
4 mittee on Oversight and Reform of the House of
5 Representatives a report on—

6 (A) the agreement; and

7 (B) any additional agreements entered into
8 with agencies under subsection (d).

9 **SEC. 122. EXTENSION OF CHIEF DATA OFFICER COUNCIL.**

10 Section 3520A(e)(2) of title 44, United States Code,
11 is amended by striking “upon the expiration of the 2-year
12 period that begins on the date the Comptroller General
13 submits the report under paragraph (1) to Congress” and
14 inserting “January 31, 2030”.

15 **TITLE II—CYBER INCIDENT RE-**
16 **PORTING FOR CRITICAL IN-**
17 **FRASTRUCTURE ACT OF 2022**

18 **SEC. 201. SHORT TITLE.**

19 This title may be cited as the “Cyber Incident Re-
20 porting for Critical Infrastructure Act of 2022”.

21 **SEC. 202. DEFINITIONS.**

22 In this title:

23 (1) COVERED CYBER INCIDENT; COVERED ENTI-
24 TY; CYBER INCIDENT; INFORMATION SYSTEM; RAN-
25 SOM PAYMENT; RANSOMWARE ATTACK; SECURITY

1 VULNERABILITY.—The terms “covered cyber inci-
2 dent”, “covered entity”, “cyber incident”, “informa-
3 tion system”, “ransom payment”, “ransomware at-
4 tack”, and “security vulnerability” have the mean-
5 ings given those terms in section 2240 of the Home-
6 land Security Act of 2002, as added by section 203
7 of this title.

8 (2) DIRECTOR.—The term “Director” means
9 the Director of the Cybersecurity and Infrastructure
10 Security Agency.

11 **SEC. 203. CYBER INCIDENT REPORTING.**

12 (a) CYBER INCIDENT REPORTING.—Title XXII of
13 the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.)
14 is amended—

15 (1) in section 2209(c) (6 U.S.C. 659(c))—

16 (A) in paragraph (11), by striking “; and”
17 and inserting a semicolon;

18 (B) in paragraph (12), by striking the pe-
19 riod at the end and inserting “; and”; and

20 (C) by adding at the end the following:

21 “(13) receiving, aggregating, and analyzing re-
22 ports related to covered cyber incidents (as defined
23 in section 2240) submitted by covered entities (as
24 defined in section 2240) and reports related to ran-
25 som payments (as defined in section 2240) sub-

1 mitted by covered entities (as defined in section
2 2240) in furtherance of the activities specified in
3 sections 2202(e), 2203, and 2241, this subsection,
4 and any other authorized activity of the Director, to
5 enhance the situational awareness of cybersecurity
6 threats across critical infrastructure sectors.”; and

7 (2) by adding at the end the following:

8 **“Subtitle D—Cyber Incident**
9 **Reporting**

10 **“SEC. 2240. DEFINITIONS.**

11 “In this subtitle:

12 “(1) CENTER.—The term ‘Center’ means the
13 center established under section 2209.

14 “(2) CLOUD SERVICE PROVIDER.—The term
15 ‘cloud service provider’ means an entity offering
16 products or services related to cloud computing, as
17 defined by the National Institute of Standards and
18 Technology in NIST Special Publication 800–145
19 and any amendatory or superseding document relat-
20 ing thereto.

21 “(3) COUNCIL.—The term ‘Council’ means the
22 Cyber Incident Reporting Council described in sec-
23 tion 2246.

24 “(4) COVERED CYBER INCIDENT.—The term
25 ‘covered cyber incident’ means a substantial cyber

1 incident experienced by a covered entity that satis-
2 fies the definition and criteria established by the Di-
3 rector in the final rule issued pursuant to section
4 2242(b).

5 “(5) COVERED ENTITY.—The term ‘covered en-
6 tity’ means an entity in a critical infrastructure sec-
7 tor, as defined in Presidential Policy Directive 21,
8 that satisfies the definition established by the Direc-
9 tor in the final rule issued pursuant to section
10 2242(b).

11 “(6) CYBER INCIDENT.—The term ‘cyber inci-
12 dent’—

13 “(A) has the meaning given the term ‘inci-
14 dent’ in section 2209; and

15 “(B) does not include an occurrence that
16 imminently, but not actually, jeopardizes—

17 “(i) information on information sys-
18 tems; or

19 “(ii) information systems.

20 “(7) CYBER THREAT.—The term ‘cyber threat’
21 has the meaning given the term ‘cybersecurity
22 threat’ in section 2201.

23 “(8) CYBER THREAT INDICATOR; CYBERSECU-
24 RITY PURPOSE; DEFENSIVE MEASURE; FEDERAL EN-
25 TITY; SECURITY VULNERABILITY.—The terms ‘cyber

1 threat indicator’, ‘cybersecurity purpose’, ‘defensive
2 measure’, ‘Federal entity’, and ‘security vulner-
3 ability’ have the meanings given those terms in sec-
4 tion 102 of the Cybersecurity Act of 2015 (6 U.S.C.
5 1501).

6 “(9) INCIDENT; SHARING.—The terms ‘inci-
7 dent’ and ‘sharing’ have the meanings given those
8 terms in section 2209.

9 “(10) INFORMATION SHARING AND ANALYSIS
10 ORGANIZATION.—The term ‘Information Sharing
11 and Analysis Organization’ has the meaning given
12 the term in section 2222.

13 “(11) INFORMATION SYSTEM.—The term ‘infor-
14 mation system’—

15 “(A) has the meaning given the term in
16 section 3502 of title 44, United States Code;
17 and

18 “(B) includes industrial control systems,
19 such as supervisory control and data acquisition
20 systems, distributed control systems, and pro-
21 grammable logic controllers.

22 “(12) MANAGED SERVICE PROVIDER.—The
23 term ‘managed service provider’ means an entity
24 that delivers services, such as network, application,
25 infrastructure, or security services, via ongoing and

1 regular support and active administration on the
2 premises of a customer, in the data center of the en-
3 tity (such as hosting), or in a third party data cen-
4 ter.

5 “(13) RANSOM PAYMENT.—The term ‘ransom
6 payment’ means the transmission of any money or
7 other property or asset, including virtual currency,
8 or any portion thereof, which has at any time been
9 delivered as ransom in connection with a
10 ransomware attack.

11 “(14) RANSOMWARE ATTACK.—The term
12 ‘ransomware attack’—

13 “(A) means an incident that includes the
14 use or threat of use of unauthorized or mali-
15 cious code on an information system, or the use
16 or threat of use of another digital mechanism
17 such as a denial of service attack, to interrupt
18 or disrupt the operations of an information sys-
19 tem or compromise the confidentiality, avail-
20 ability, or integrity of electronic data stored on,
21 processed by, or transiting an information sys-
22 tem to extort a demand for a ransom payment;
23 and

24 “(B) does not include any such event
25 where the demand for payment is—

1 “(i) not genuine; or

2 “(ii) made in good faith by an entity
3 in response to a specific request by the
4 owner or operator of the information sys-
5 tem.

6 “(15) SECTOR RISK MANAGEMENT AGENCY.—
7 The term ‘Sector Risk Management Agency’ has the
8 meaning given the term in section 2201.

9 “(16) SIGNIFICANT CYBER INCIDENT.—The
10 term ‘significant cyber incident’ means a cyber inci-
11 dent, or a group of related cyber incidents, that the
12 Secretary determines is likely to result in demon-
13 strable harm to the national security interests, for-
14 eign relations, or economy of the United States or
15 to the public confidence, civil liberties, or public
16 health and safety of the people of the United States.

17 “(17) SUPPLY CHAIN COMPROMISE.—The term
18 ‘supply chain compromise’ means an incident within
19 the supply chain of an information system that an
20 adversary can leverage or does leverage to jeopardize
21 the confidentiality, integrity, or availability of the in-
22 formation system or the information the system
23 processes, stores, or transmits, and can occur at any
24 point during the life cycle.

1 “(18) VIRTUAL CURRENCY.—The term ‘virtual
2 currency’ means the digital representation of value
3 that functions as a medium of exchange, a unit of
4 account, or a store of value.

5 “(19) VIRTUAL CURRENCY ADDRESS.—The
6 term ‘virtual currency address’ means a unique pub-
7 lic cryptographic key identifying the location to
8 which a virtual currency payment can be made.

9 **“SEC. 2241. CYBER INCIDENT REVIEW.**

10 “(a) ACTIVITIES.—The Center shall—

11 “(1) receive, aggregate, analyze, and secure,
12 using processes consistent with the processes devel-
13 oped pursuant to the Cybersecurity Information
14 Sharing Act of 2015 (6 U.S.C. 1501 et seq.) reports
15 from covered entities related to a covered cyber inci-
16 dent to assess the effectiveness of security controls,
17 identify tactics, techniques, and procedures adver-
18 saries use to overcome those controls and other cy-
19 bersecurity purposes, including to assess potential
20 impact of cyber incidents on public health and safety
21 and to enhance situational awareness of cyber
22 threats across critical infrastructure sectors;

23 “(2) coordinate and share information with ap-
24 propriate Federal departments and agencies to iden-

1 tify and track ransom payments, including those uti-
2 lizing virtual currencies;

3 “(3) leverage information gathered about cyber
4 incidents to—

5 “(A) enhance the quality and effectiveness
6 of information sharing and coordination efforts
7 with appropriate entities, including agencies,
8 sector coordinating councils, Information Shar-
9 ing and Analysis Organizations, State, local,
10 Tribal, and territorial governments, technology
11 providers, critical infrastructure owners and op-
12 erators, cybersecurity and cyber incident re-
13 sponse firms, and security researchers; and

14 “(B) provide appropriate entities, including
15 sector coordinating councils, Information Shar-
16 ing and Analysis Organizations, State, local,
17 Tribal, and territorial governments, technology
18 providers, cybersecurity and cyber incident re-
19 sponse firms, and security researchers, with
20 timely, actionable, and anonymized reports of
21 cyber incident campaigns and trends, including,
22 to the maximum extent practicable, related con-
23 textual information, cyber threat indicators, and
24 defensive measures, pursuant to section 2245;

1 “(4) establish mechanisms to receive feedback
2 from stakeholders on how the Agency can most ef-
3 fectively receive covered cyber incident reports, ran-
4 som payment reports, and other voluntarily provided
5 information, and how the Agency can most effec-
6 tively support private sector cybersecurity;

7 “(5) facilitate the timely sharing, on a vol-
8 untary basis, between relevant critical infrastructure
9 owners and operators of information relating to cov-
10 ered cyber incidents and ransom payments, particu-
11 larly with respect to ongoing cyber threats or secu-
12 rity vulnerabilities and identify and disseminate
13 ways to prevent or mitigate similar cyber incidents
14 in the future;

15 “(6) for a covered cyber incident, including a
16 ransomware attack, that also satisfies the definition
17 of a significant cyber incident, or is part of a group
18 of related cyber incidents that together satisfy such
19 definition, conduct a review of the details sur-
20 rounding the covered cyber incident or group of
21 those incidents and identify and disseminate ways to
22 prevent or mitigate similar incidents in the future;

23 “(7) with respect to covered cyber incident re-
24 ports under section 2242(a) and 2243 involving an
25 ongoing cyber threat or security vulnerability, imme-

1 diately review those reports for cyber threat indica-
2 tors that can be anonymized and disseminated, with
3 defensive measures, to appropriate stakeholders, in
4 coordination with other divisions within the Agency,
5 as appropriate;

6 “(8) publish quarterly unclassified, public re-
7 ports that describe aggregated, anonymized observa-
8 tions, findings, and recommendations based on cov-
9 ered cyber incident reports, which may be based on
10 the unclassified information contained in the brief-
11 ings required under subsection (c);

12 “(9) proactively identify opportunities, con-
13 sistent with the protections in section 2245, to lever-
14 age and utilize data on cyber incidents in a manner
15 that enables and strengthens cybersecurity research
16 carried out by academic institutions and other pri-
17 vate sector organizations, to the greatest extent
18 practicable; and

19 “(10) in accordance with section 2245 and sub-
20 section (b) of this section, as soon as possible but
21 not later than 24 hours after receiving a covered
22 cyber incident report, ransom payment report, volun-
23 tarily submitted information pursuant to section
24 2243, or information received pursuant to a request
25 for information or subpoena under section 2244,

1 make available the information to appropriate Sector
2 Risk Management Agencies and other appropriate
3 Federal agencies.

4 “(b) INTERAGENCY SHARING.—The President or a
5 designee of the President—

6 “(1) may establish a specific time requirement
7 for sharing information under subsection (a)(11);
8 and

9 “(2) shall determine the appropriate Federal
10 agencies under subsection (a)(11).

11 “(c) PERIODIC BRIEFING.—Not later than 60 days
12 after the effective date of the final rule required under
13 section 2242(b), and on the first day of each month there-
14 after, the Director, in consultation with the National
15 Cyber Director, the Attorney General, and the Director
16 of National Intelligence, shall provide to the majority lead-
17 er of the Senate, the minority leader of the Senate, the
18 Speaker of the House of Representatives, the minority
19 leader of the House of Representatives, the Committee on
20 Homeland Security and Governmental Affairs of the Sen-
21 ate, and the Committee on Homeland Security of the
22 House of Representatives a briefing that characterizes the
23 national cyber threat landscape, including the threat fac-
24 ing Federal agencies and covered entities, and applicable
25 intelligence and law enforcement information, covered

1 cyber incidents, and ransomware attacks, as of the date
2 of the briefing, which shall—

3 “(1) include the total number of reports sub-
4 mitted under sections 2242 and 2243 during the
5 preceding month, including a breakdown of required
6 and voluntary reports;

7 “(2) include any identified trends in covered
8 cyber incidents and ransomware attacks over the
9 course of the preceding month and as compared to
10 previous reports, including any trends related to the
11 information collected in the reports submitted under
12 sections 2242 and 2243, including—

13 “(A) the infrastructure, tactics, and tech-
14 niques malicious cyber actors commonly use;
15 and

16 “(B) intelligence gaps that have impeded,
17 or currently are impeding, the ability to counter
18 covered cyber incidents and ransomware
19 threats;

20 “(3) include a summary of the known uses of
21 the information in reports submitted under sections
22 2242 and 2243; and

23 “(4) include an unclassified portion, but may
24 include a classified component.

1 **“SEC. 2242. REQUIRED REPORTING OF CERTAIN CYBER IN-**
2 **CIDENTS.**

3 “(a) IN GENERAL.—

4 “(1) COVERED CYBER INCIDENT REPORTS.—

5 “(A) IN GENERAL.—A covered entity that
6 experiences a covered cyber incident shall report
7 the covered cyber incident to the Agency not
8 later than 72 hours after the covered entity rea-
9 sonably believes that the covered cyber incident
10 has occurred.

11 “(B) LIMITATION.—The Director may not
12 require reporting under subparagraph (A) any
13 earlier than 72 hours after the covered entity
14 reasonably believes that a covered cyber inci-
15 dent has occurred.

16 “(2) RANSOM PAYMENT REPORTS.—

17 “(A) IN GENERAL.—A covered entity that
18 makes a ransom payment as the result of a
19 ransomware attack against the covered entity
20 shall report the payment to the Agency not
21 later than 24 hours after the ransom payment
22 has been made.

23 “(B) APPLICATION.—The requirements
24 under subparagraph (A) shall apply even if the
25 ransomware attack is not a covered cyber inci-

1 dent subject to the reporting requirements
2 under paragraph (1).

3 “(3) SUPPLEMENTAL REPORTS.—A covered en-
4 tity shall promptly submit to the Agency an update
5 or supplement to a previously submitted covered
6 cyber incident report if substantial new or different
7 information becomes available or if the covered enti-
8 ty makes a ransom payment after submitting a cov-
9 ered cyber incident report required under paragraph
10 (1), until such date that such covered entity notifies
11 the Agency that the covered cyber incident at issue
12 has concluded and has been fully mitigated and re-
13 solved.

14 “(4) PRESERVATION OF INFORMATION.—Any
15 covered entity subject to requirements of paragraph
16 (1), (2), or (3) shall preserve data relevant to the
17 covered cyber incident or ransom payment in accord-
18 ance with procedures established in the final rule
19 issued pursuant to subsection (b).

20 “(5) EXCEPTIONS.—

21 “(A) REPORTING OF COVERED CYBER IN-
22 CIDENT WITH RANSOM PAYMENT.—If a covered
23 entity is the victim of a covered cyber incident
24 and makes a ransom payment prior to the 72
25 hour requirement under paragraph (1), such

1 that the reporting requirements under para-
2 graphs (1) and (2) both apply, the covered enti-
3 ty may submit a single report to satisfy the re-
4 quirements of both paragraphs in accordance
5 with procedures established in the final rule
6 issued pursuant to subsection (b).

7 “(B) SUBSTANTIALLY SIMILAR REPORTED
8 INFORMATION.—

9 “(i) IN GENERAL.—Subject to the
10 limitation described in clause (ii), where
11 the Agency has an agreement in place that
12 satisfies the requirements of section 4(a) of
13 the Cyber Incident Reporting for Critical
14 Infrastructure Act of 2022, the require-
15 ments under paragraphs (1), (2), and (3)
16 shall not apply to a covered entity required
17 by law, regulation, or contract to report
18 substantially similar information to an-
19 other Federal agency within a substantially
20 similar timeframe.

21 “(ii) LIMITATION.—The exemption in
22 clause (i) shall take effect with respect to
23 a covered entity once an agency agreement
24 and sharing mechanism is in place between
25 the Agency and the respective Federal

1 agency, pursuant to section 4(a) of the
2 Cyber Incident Reporting for Critical In-
3 frastructure Act of 2022.

4 “(iii) RULES OF CONSTRUCTION.—
5 Nothing in this paragraph shall be con-
6 strued to—

7 “(I) exempt a covered entity
8 from the reporting requirements
9 under paragraph (3) unless the sup-
10 plemental report also meets the re-
11 quirements of clauses (i) and (ii) of
12 this paragraph;

13 “(II) prevent the Agency from
14 contacting an entity submitting infor-
15 mation to another Federal agency
16 that is provided to the Agency pursu-
17 ant to section 4 of the Cyber Incident
18 Reporting for Critical Infrastructure
19 Act of 2022; or

20 “(III) prevent an entity from
21 communicating with the Agency.

22 “(C) DOMAIN NAME SYSTEM.—The re-
23 quirements under paragraphs (1), (2) and (3)
24 shall not apply to a covered entity or the func-
25 tions of a covered entity that the Director de-

1 termines constitute critical infrastructure
2 owned, operated, or governed by multi-stake-
3 holder organizations that develop, implement,
4 and enforce policies concerning the Domain
5 Name System, such as the Internet Corporation
6 for Assigned Names and Numbers or the Inter-
7 net Assigned Numbers Authority.

8 “(6) MANNER, TIMING, AND FORM OF RE-
9 PORTS.—Reports made under paragraphs (1), (2),
10 and (3) shall be made in the manner and form, and
11 within the time period in the case of reports made
12 under paragraph (3), prescribed in the final rule
13 issued pursuant to subsection (b).

14 “(7) EFFECTIVE DATE.—Paragraphs (1)
15 through (4) shall take effect on the dates prescribed
16 in the final rule issued pursuant to subsection (b).

17 “(b) RULEMAKING.—

18 “(1) NOTICE OF PROPOSED RULEMAKING.—Not
19 later than 24 months after the date of enactment of
20 this section, the Director, in consultation with Sector
21 Risk Management Agencies, the Department of Jus-
22 tice, and other Federal agencies, shall publish in the
23 Federal Register a notice of proposed rulemaking to
24 implement subsection (a).

1 “(2) FINAL RULE.—Not later than 18 months
2 after publication of the notice of proposed rule-
3 making under paragraph (1), the Director shall
4 issue a final rule to implement subsection (a).

5 “(3) SUBSEQUENT RULEMAKINGS.—

6 “(A) IN GENERAL.—The Director is au-
7 thorized to issue regulations to amend or revise
8 the final rule issued pursuant to paragraph (2).

9 “(B) PROCEDURES.—Any subsequent rules
10 issued under subparagraph (A) shall comply
11 with the requirements under chapter 5 of title
12 5, United States Code, including the issuance of
13 a notice of proposed rulemaking under section
14 553 of such title.

15 “(c) ELEMENTS.—The final rule issued pursuant to
16 subsection (b) shall be composed of the following elements:

17 “(1) A clear description of the types of entities
18 that constitute covered entities, based on—

19 “(A) the consequences that disruption to
20 or compromise of such an entity could cause to
21 national security, economic security, or public
22 health and safety;

23 “(B) the likelihood that such an entity
24 may be targeted by a malicious cyber actor, in-
25 cluding a foreign country; and

1 “(C) the extent to which damage, disrup-
2 tion, or unauthorized access to such an entity,
3 including the accessing of sensitive cybersecu-
4 rity vulnerability information or penetration
5 testing tools or techniques, will likely enable the
6 disruption of the reliable operation of critical
7 infrastructure.

8 “(2) A clear description of the types of substan-
9 tial cyber incidents that constitute covered cyber in-
10 cidents, which shall—

11 “(A) at a minimum, require the occurrence
12 of—

13 “(i) a cyber incident that leads to sub-
14 stantial loss of confidentiality, integrity, or
15 availability of such information system or
16 network, or a serious impact on the safety
17 and resiliency of operational systems and
18 processes;

19 “(ii) a disruption of business or indus-
20 trial operations, including due to a denial
21 of service attack, ransomware attack, or
22 exploitation of a zero day vulnerability,
23 against

24 “(I) an information system or
25 network; or

1 “(II) an operational technology
2 system or process; or

3 “(iii) unauthorized access or disrup-
4 tion of business or industrial operations
5 due to loss of service facilitated through,
6 or caused by, a compromise of a cloud
7 service provider, managed service provider,
8 or other third-party data hosting provider
9 or by a supply chain compromise;

10 “(B) consider—

11 “(i) the sophistication or novelty of
12 the tactics used to perpetrate such a cyber
13 incident, as well as the type, volume, and
14 sensitivity of the data at issue;

15 “(ii) the number of individuals di-
16 rectly or indirectly affected or potentially
17 affected by such a cyber incident; and

18 “(iii) potential impacts on industrial
19 control systems, such as supervisory con-
20 trol and data acquisition systems, distrib-
21 uted control systems, and programmable
22 logic controllers; and

23 “(C) exclude—

24 “(i) any event where the cyber inci-
25 dent is perpetrated in good faith by an en-

1 tity in response to a specific request by the
2 owner or operator of the information sys-
3 tem; and

4 “(ii) the threat of disruption as extor-
5 tion, as described in section 2240(14)(A).

6 “(3) A requirement that, if a covered cyber inci-
7 dent or a ransom payment occurs following an ex-
8 empted threat described in paragraph (2)(C)(ii), the
9 covered entity shall comply with the requirements in
10 this subtitle in reporting the covered cyber incident
11 or ransom payment.

12 “(4) A clear description of the specific required
13 contents of a report pursuant to subsection (a)(1),
14 which shall include the following information, to the
15 extent applicable and available, with respect to a
16 covered cyber incident:

17 “(A) A description of the covered cyber in-
18 cident, including—

19 “(i) identification and a description of
20 the function of the affected information
21 systems, networks, or devices that were, or
22 are reasonably believed to have been, af-
23 fected by such cyber incident;

24 “(ii) a description of the unauthorized
25 access with substantial loss of confiden-

1 tiality, integrity, or availability of the af-
2 fected information system or network or
3 disruption of business or industrial oper-
4 ations;

5 “(iii) the estimated date range of such
6 incident; and

7 “(iv) the impact to the operations of
8 the covered entity.

9 “(B) Where applicable, a description of the
10 vulnerabilities exploited and the security de-
11 fenses that were in place, as well as the tactics,
12 techniques, and procedures used to perpetrate
13 the covered cyber incident.

14 “(C) Where applicable, any identifying or
15 contact information related to each actor rea-
16 sonably believed to be responsible for such cyber
17 incident.

18 “(D) Where applicable, identification of
19 the category or categories of information that
20 were, or are reasonably believed to have been,
21 accessed or acquired by an unauthorized per-
22 son.

23 “(E) The name and other information that
24 clearly identifies the covered entity impacted by
25 the covered cyber incident, including, as appli-

1 cable, the State of incorporation or formation of
2 the covered entity, trade names, legal names, or
3 other identifiers.

4 “(F) Contact information, such as tele-
5 phone number or electronic mail address, that
6 the Agency may use to contact the covered enti-
7 ty or an authorized agent of such covered enti-
8 ty, or, where applicable, the service provider of
9 such covered entity acting with the express per-
10 mission of, and at the direction of, the covered
11 entity to assist with compliance with the re-
12 quirements of this subtitle.

13 “(5) A clear description of the specific required
14 contents of a report pursuant to subsection (a)(2),
15 which shall be the following information, to the ex-
16 tent applicable and available, with respect to a ran-
17 som payment:

18 “(A) A description of the ransomware at-
19 tack, including the estimated date range of the
20 attack.

21 “(B) Where applicable, a description of the
22 vulnerabilities, tactics, techniques, and proce-
23 dures used to perpetrate the ransomware at-
24 tack.

1 “(C) Where applicable, any identifying or
2 contact information related to the actor or ac-
3 tors reasonably believed to be responsible for
4 the ransomware attack.

5 “(D) The name and other information that
6 clearly identifies the covered entity that made
7 the ransom payment or on whose behalf the
8 payment was made.

9 “(E) Contact information, such as tele-
10 phone number or electronic mail address, that
11 the Agency may use to contact the covered enti-
12 ty that made the ransom payment or an author-
13 ized agent of such covered entity, or, where ap-
14 plicable, the service provider of such covered en-
15 tity acting with the express permission of, and
16 at the direction of, that covered entity to assist
17 with compliance with the requirements of this
18 subtitle.

19 “(F) The date of the ransom payment.

20 “(G) The ransom payment demand, includ-
21 ing the type of virtual currency or other com-
22 modity requested, if applicable.

23 “(H) The ransom payment instructions,
24 including information regarding where to send
25 the payment, such as the virtual currency ad-

1 dress or physical address the funds were re-
2 quested to be sent to, if applicable.

3 “(I) The amount of the ransom payment.

4 “(6) A clear description of the types of data re-
5 quired to be preserved pursuant to subsection (a)(4),
6 the period of time for which the data is required to
7 be preserved, and allowable uses, processes, and pro-
8 cedures.

9 “(7) Deadlines and criteria for submitting sup-
10 plemental reports to the Agency required under sub-
11 section (a)(3), which shall—

12 “(A) be established by the Director in con-
13 sultation with the Council;

14 “(B) consider any existing regulatory re-
15 porting requirements similar in scope, purpose,
16 and timing to the reporting requirements to
17 which such a covered entity may also be sub-
18 ject, and make efforts to harmonize the timing
19 and contents of any such reports to the max-
20 imum extent practicable;

21 “(C) balance the need for situational
22 awareness with the ability of the covered entity
23 to conduct cyber incident response and inves-
24 tigations; and

1 “(D) provide a clear description of what
2 constitutes substantial new or different infor-
3 mation.

4 “(8) Procedures for—

5 “(A) entities, including third parties pur-
6 suant to subsection (d)(1), to submit reports re-
7 quired by paragraphs (1), (2), and (3) of sub-
8 section (a), including the manner and form
9 thereof, which shall include, at a minimum, a
10 concise, user-friendly web-based form;

11 “(B) the Agency to carry out—

12 “(i) the enforcement provisions of sec-
13 tion 2244, including with respect to the
14 issuance, service, withdrawal, referral proc-
15 ess, and enforcement of subpoenas, appeals
16 and due process procedures;

17 “(ii) other available enforcement
18 mechanisms including acquisition, suspen-
19 sion and debarment procedures; and

20 “(iii) other aspects of noncompliance;

21 “(C) implementing the exceptions provided
22 in subsection (a)(5); and

23 “(D) protecting privacy and civil liberties
24 consistent with processes adopted pursuant to
25 section 105(b) of the Cybersecurity Act of 2015

1 (6 U.S.C. 1504(b)) and anonymizing and safe-
2 guarding, or no longer retaining, information
3 received and disclosed through covered cyber in-
4 cident reports and ransom payment reports that
5 is known to be personal information of a spe-
6 cific individual or information that identifies a
7 specific individual that is not directly related to
8 a cybersecurity threat.

9 “(9) Other procedural measures directly nec-
10 essary to implement subsection (a).

11 “(d) THIRD PARTY REPORT SUBMISSION AND RAN-
12 SOM PAYMENT.—

13 “(1) REPORT SUBMISSION.—A covered entity
14 that is required to submit a covered cyber incident
15 report or a ransom payment report may use a third
16 party, such as an incident response company, insur-
17 ance provider, service provider, Information Sharing
18 and Analysis Organization, or law firm, to submit
19 the required report under subsection (a).

20 “(2) RANSOM PAYMENT.—If a covered entity
21 impacted by a ransomware attack uses a third party
22 to make a ransom payment, the third party shall not
23 be required to submit a ransom payment report for
24 itself under subsection (a)(2).

1 “(3) DUTY TO REPORT.—Third-party reporting
2 under this subparagraph does not relieve a covered
3 entity from the duty to comply with the require-
4 ments for covered cyber incident report or ransom
5 payment report submission.

6 “(4) RESPONSIBILITY TO ADVISE.—Any third
7 party used by a covered entity that knowingly makes
8 a ransom payment on behalf of a covered entity im-
9 pacted by a ransomware attack shall advise the im-
10 pacted covered entity of the responsibilities of the
11 impacted covered entity regarding reporting ransom
12 payments under this section.

13 “(e) OUTREACH TO COVERED ENTITIES.—

14 “(1) IN GENERAL.—The Agency shall conduct
15 an outreach and education campaign to inform likely
16 covered entities, entities that offer or advertise as a
17 service to customers to make or facilitate ransom
18 payments on behalf of covered entities impacted by
19 ransomware attacks and other appropriate entities
20 of the requirements of paragraphs (1), (2), and (3)
21 of subsection (a).

22 “(2) ELEMENTS.—The outreach and education
23 campaign under paragraph (1) shall include the fol-
24 lowing:

1 “(A) An overview of the final rule issued
2 pursuant to subsection (b).

3 “(B) An overview of mechanisms to submit
4 to the Agency covered cyber incident reports,
5 ransom payment reports, and information relat-
6 ing to the disclosure, retention, and use of cov-
7 ered cyber incident reports and ransom pay-
8 ment reports under this section.

9 “(C) An overview of the protections af-
10 farded to covered entities for complying with
11 the requirements under paragraphs (1), (2),
12 and (3) of subsection (a).

13 “(D) An overview of the steps taken under
14 section 2244 when a covered entity is not in
15 compliance with the reporting requirements
16 under subsection (a).

17 “(E) Specific outreach to cybersecurity
18 vendors, cyber incident response providers, cy-
19 bersecurity insurance entities, and other entities
20 that may support covered entities.

21 “(F) An overview of the privacy and civil
22 liberties requirements in this subtitle.

23 “(3) COORDINATION.—In conducting the out-
24 reach and education campaign required under para-
25 graph (1), the Agency may coordinate with—

1 “(A) the Critical Infrastructure Partner-
2 ship Advisory Council established under section
3 871;

4 “(B) Information Sharing and Analysis
5 Organizations;

6 “(C) trade associations;

7 “(D) information sharing and analysis cen-
8 ters;

9 “(E) sector coordinating councils; and

10 “(F) any other entity as determined appro-
11 priate by the Director.

12 “(f) EXEMPTION.—Sections 3506(e), 3507, 3508,
13 and 3509 of title 44, United States Code, shall not apply
14 to any action to carry out this section.

15 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion shall affect the authorities of the Federal Government
17 to implement the requirements of Executive Order 14028
18 (86 Fed. Reg. 26633; relating to improving the nation’s
19 cybersecurity), including changes to the Federal Acquisi-
20 tion Regulations and remedies to include suspension and
21 debarment.

22 “(h) SAVINGS PROVISION.—Nothing in this section
23 shall be construed to supersede or to abrogate, modify,
24 or otherwise limit the authority that is vested in any offi-
25 cer or any agency of the United States Government to reg-

1 ulate or take action with respect to the cybersecurity of
2 an entity.

3 **“SEC. 2243. VOLUNTARY REPORTING OF OTHER CYBER IN-**
4 **CIDENTS.**

5 “(a) IN GENERAL.—Entities may voluntarily report
6 cyber incidents or ransom payments to the Agency that
7 are not required under paragraph (1), (2), or (3) of sec-
8 tion 2242(a), but may enhance the situational awareness
9 of cyber threats.

10 “(b) VOLUNTARY PROVISION OF ADDITIONAL INFOR-
11 MATION IN REQUIRED REPORTS.—Covered entities may
12 voluntarily include in reports required under paragraph
13 (1), (2), or (3) of section 2242(a) information that is not
14 required to be included, but may enhance the situational
15 awareness of cyber threats.

16 “(c) APPLICATION OF PROTECTIONS.—The protec-
17 tions under section 2245 applicable to reports made under
18 section 2242 shall apply in the same manner and to the
19 same extent to reports and information submitted under
20 subsections (a) and (b).

21 **“SEC. 2244. NONCOMPLIANCE WITH REQUIRED REPORTING.**

22 “(a) PURPOSE.—In the event that a covered entity
23 that is required to submit a report under section 2242(a)
24 fails to comply with the requirement to report, the Direc-
25 tor may obtain information about the cyber incident or

1 ransom payment by engaging the covered entity directly
2 to request information about the cyber incident or ransom
3 payment, and if the Director is unable to obtain informa-
4 tion through such engagement, by issuing a subpoena to
5 the covered entity, pursuant to subsection (c), to gather
6 information sufficient to determine whether a covered
7 cyber incident or ransom payment has occurred.

8 “(b) INITIAL REQUEST FOR INFORMATION.—

9 “(1) IN GENERAL.—If the Director has reason
10 to believe, whether through public reporting or other
11 information in the possession of the Federal Govern-
12 ment, including through analysis performed pursu-
13 ant to paragraph (1) or (2) of section 2241(a), that
14 a covered entity has experienced a covered cyber in-
15 cident or made a ransom payment but failed to re-
16 port such cyber incident or payment to the Agency
17 in accordance with section 2242(a), the Director
18 may request additional information from the covered
19 entity to confirm whether or not a covered cyber in-
20 cident or ransom payment has occurred.

21 “(2) TREATMENT.—Information provided to the
22 Agency in response to a request under paragraph
23 (1) shall be treated as if it was submitted through
24 the reporting procedures established in section 2242.

25 “(c) ENFORCEMENT.—

1 “(1) IN GENERAL.—If, after the date that is 72
2 hours from the date on which the Director made the
3 request for information in subsection (b), the Direc-
4 tor has received no response from the covered entity
5 from which such information was requested, or re-
6 ceived an inadequate response, the Director may
7 issue to such covered entity a subpoena to compel
8 disclosure of information the Director deems nec-
9 essary to determine whether a covered cyber incident
10 or ransom payment has occurred and obtain the in-
11 formation required to be reported pursuant to sec-
12 tion 2242 and any implementing regulations, and as-
13 sess potential impacts to national security, economic
14 security, or public health and safety.

15 “(2) CIVIL ACTION.—

16 “(A) IN GENERAL.—If a covered entity
17 fails to comply with a subpoena, the Director
18 may refer the matter to the Attorney General
19 to bring a civil action in a district court of the
20 United States to enforce such subpoena.

21 “(B) VENUE.—An action under this para-
22 graph may be brought in the judicial district in
23 which the covered entity against which the ac-
24 tion is brought resides, is found, or does busi-
25 ness.

1 “(C) CONTEMPT OF COURT.—A court may
2 punish a failure to comply with a subpoena
3 issued under this subsection as contempt of
4 court.

5 “(3) NON-DELEGATION.—The authority of the
6 Director to issue a subpoena under this subsection
7 may not be delegated.

8 “(4) AUTHENTICATION.—

9 “(A) IN GENERAL.—Any subpoena issued
10 electronically pursuant to this subsection shall
11 be authenticated with a cryptographic digital
12 signature of an authorized representative of the
13 Agency, or other comparable successor tech-
14 nology, that allows the Agency to demonstrate
15 that such subpoena was issued by the Agency
16 and has not been altered or modified since such
17 issuance.

18 “(B) INVALID IF NOT AUTHENTICATED.—
19 Any subpoena issued electronically pursuant to
20 this subsection that is not authenticated in ac-
21 cordance with subparagraph (A) shall not be
22 considered to be valid by the recipient of such
23 subpoena.

24 “(d) PROVISION OF CERTAIN INFORMATION TO AT-
25 TORNEY GENERAL.—

1 “(1) IN GENERAL.—Notwithstanding section
2 2245(a)(5) and paragraph (b)(2) of this section, if
3 the Director determines, based on the information
4 provided in response to a subpoena issued pursuant
5 to subsection (c), that the facts relating to the cyber
6 incident or ransom payment at issue may constitute
7 grounds for a regulatory enforcement action or
8 criminal prosecution, the Director may provide such
9 information to the Attorney General or the head of
10 the appropriate Federal regulatory agency, who may
11 use such information for a regulatory enforcement
12 action or criminal prosecution.

13 “(2) CONSULTATION.—The Director may con-
14 sult with the Attorney General or the head of the
15 appropriate Federal regulatory agency when making
16 the determination under paragraph (1).

17 “(e) CONSIDERATIONS.—When determining whether
18 to exercise the authorities provided under this section, the
19 Director shall take into consideration—

20 “(1) the complexity in determining if a covered
21 cyber incident has occurred; and

22 “(2) prior interaction with the Agency or
23 awareness of the covered entity of the policies and
24 procedures of the Agency for reporting covered cyber
25 incidents and ransom payments.

1 “(f) EXCLUSIONS.—This section shall not apply to a
2 State, local, Tribal, or territorial government entity.

3 “(g) REPORT TO CONGRESS.—The Director shall
4 submit to Congress an annual report on the number of
5 times the Director—

6 “(1) issued an initial request for information
7 pursuant to subsection (b);

8 “(2) issued a subpoena pursuant to subsection
9 (c); or

10 “(3) referred a matter to the Attorney General
11 for a civil action pursuant to subsection (c)(2).

12 “(h) PUBLICATION OF THE ANNUAL REPORT.—The
13 Director shall publish a version of the annual report re-
14 quired under subsection (g) on the website of the Agency,
15 which shall include, at a minimum, the number of times
16 the Director—

17 “(1) issued an initial request for information
18 pursuant to subsection (b); or

19 “(2) issued a subpoena pursuant to subsection
20 (c).

21 “(i) ANONYMIZATION OF REPORTS.—The Director
22 shall ensure any victim information contained in a report
23 required to be published under subsection (h) be
24 anonymized before the report is published.

1 **“SEC. 2245. INFORMATION SHARED WITH OR PROVIDED TO**
2 **THE FEDERAL GOVERNMENT.**

3 “(a) DISCLOSURE, RETENTION, AND USE.—

4 “(1) AUTHORIZED ACTIVITIES.—Information
5 provided to the Agency pursuant to section 2242 or
6 2243 may be disclosed to, retained by, and used by,
7 consistent with otherwise applicable provisions of
8 Federal law, any Federal agency or department,
9 component, officer, employee, or agent of the Fed-
10 eral Government solely for—

11 “(A) a cybersecurity purpose;

12 “(B) the purpose of identifying—

13 “(i) a cyber threat, including the
14 source of the cyber threat; or

15 “(ii) a security vulnerability;

16 “(C) the purpose of responding to, or oth-
17 erwise preventing or mitigating, a specific
18 threat of death, a specific threat of serious bod-
19 ily harm, or a specific threat of serious eco-
20 nomic harm, including a terrorist act or use of
21 a weapon of mass destruction;

22 “(D) the purpose of responding to, inves-
23 tigating, prosecuting, or otherwise preventing or
24 mitigating, a serious threat to a minor, includ-
25 ing sexual exploitation and threats to physical
26 safety; or

1 “(E) the purpose of preventing, inves-
2 tigating, disrupting, or prosecuting an offense
3 arising out of a cyber incident reported pursu-
4 ant to section 2242 or 2243 or any of the of-
5 fenses listed in section 105(d)(5)(A)(v) of the
6 Cybersecurity Act of 2015 (6 U.S.C.
7 1504(d)(5)(A)(v)).

8 “(2) AGENCY ACTIONS AFTER RECEIPT.—

9 “(A) RAPID, CONFIDENTIAL SHARING OF
10 CYBER THREAT INDICATORS.—Upon receiving a
11 covered cyber incident or ransom payment re-
12 port submitted pursuant to this section, the
13 Agency shall immediately review the report to
14 determine whether the cyber incident that is the
15 subject of the report is connected to an ongoing
16 cyber threat or security vulnerability and where
17 applicable, use such report to identify, develop,
18 and rapidly disseminate to appropriate stake-
19 holders actionable, anonymized cyber threat in-
20 dicators and defensive measures.

21 “(B) PRINCIPLES FOR SHARING SECURITY
22 VULNERABILITIES.—With respect to informa-
23 tion in a covered cyber incident or ransom pay-
24 ment report regarding a security vulnerability
25 referred to in paragraph (1)(B)(ii), the Director

1 shall develop principles that govern the timing
2 and manner in which information relating to se-
3 curity vulnerabilities may be shared, consistent
4 with common industry best practices and
5 United States and international standards.

6 “(3) PRIVACY AND CIVIL LIBERTIES.—Informa-
7 tion contained in covered cyber incident and ransom
8 payment reports submitted to the Agency pursuant
9 to section 2242 shall be retained, used, and dissemi-
10 nated, where permissible and appropriate, by the
11 Federal Government in accordance with processes to
12 be developed for the protection of personal informa-
13 tion consistent with processes adopted pursuant to
14 section 105 of the Cybersecurity Act of 2015 (6
15 U.S.C. 1504) and in a manner that protects from
16 unauthorized use or disclosure any information that
17 may contain—

18 “(A) personal information of a specific in-
19 dividual that is not directly related to a cyberse-
20 curity threat; or

21 “(B) information that identifies a specific
22 individual that is not directly related to a cyber-
23 security threat.

24 “(4) DIGITAL SECURITY.—The Agency shall en-
25 sure that reports submitted to the Agency pursuant

1 to section 2242, and any information contained in
2 those reports, are collected, stored, and protected at
3 a minimum in accordance with the requirements for
4 moderate impact Federal information systems, as
5 described in Federal Information Processing Stand-
6 ards Publication 199, or any successor document.

7 “(5) PROHIBITION ON USE OF INFORMATION IN
8 REGULATORY ACTIONS.—

9 “(A) IN GENERAL.—A Federal, State,
10 local, or Tribal government shall not use infor-
11 mation about a covered cyber incident or ran-
12 som payment obtained solely through reporting
13 directly to the Agency in accordance with this
14 subtitle to regulate, including through an en-
15 forcement action, the activities of the covered
16 entity or entity that made a ransom payment,
17 unless the government entity expressly allows
18 entities to submit reports to the Agency to meet
19 regulatory reporting obligations of the entity.

20 “(B) CLARIFICATION.—A report submitted
21 to the Agency pursuant to section 2242 or 2243
22 may, consistent with Federal or State regu-
23 latory authority specifically relating to the pre-
24 vention and mitigation of cybersecurity threats
25 to information systems, inform the development

1 or implementation of regulations relating to
2 such systems.

3 “(b) PROTECTIONS FOR REPORTING ENTITIES AND
4 INFORMATION.—Reports describing covered cyber inci-
5 dents or ransom payments submitted to the Agency by en-
6 tities in accordance with section 2242, as well as volun-
7 tarily-submitted cyber incident reports submitted to the
8 Agency pursuant to section 2243, shall—

9 “(1) be considered the commercial, financial,
10 and proprietary information of the covered entity
11 when so designated by the covered entity;

12 “(2) be exempt from disclosure under section
13 552(b)(3) of title 5, United States Code (commonly
14 known as the ‘Freedom of Information Act’), as well
15 as any provision of State, Tribal, or local freedom of
16 information law, open government law, open meet-
17 ings law, open records law, sunshine law, or similar
18 law requiring disclosure of information or records;

19 “(3) be considered not to constitute a waiver of
20 any applicable privilege or protection provided by
21 law, including trade secret protection; and

22 “(4) not be subject to a rule of any Federal
23 agency or department or any judicial doctrine re-
24 garding ex parte communications with a decision-
25 making official.

1 “(c) LIABILITY PROTECTIONS.—

2 “(1) IN GENERAL.—No cause of action shall lie
3 or be maintained in any court by any person or enti-
4 ty and any such action shall be promptly dismissed
5 for the submission of a report pursuant to section
6 2242(a) that is submitted in conformance with this
7 subtitle and the rule promulgated under section
8 2242(b), except that this subsection shall not apply
9 with regard to an action by the Federal Government
10 pursuant to section 2244(c)(2).

11 “(2) SCOPE.—The liability protections provided
12 in this subsection shall only apply to or affect litiga-
13 tion that is solely based on the submission of a cov-
14 ered cyber incident report or ransom payment report
15 to the Agency.

16 “(3) RESTRICTIONS.—Notwithstanding para-
17 graph (2), no report submitted to the Agency pursu-
18 ant to this subtitle or any communication, document,
19 material, or other record, created for the sole pur-
20 pose of preparing, drafting, or submitting such re-
21 port, may be received in evidence, subject to dis-
22 covery, or otherwise used in any trial, hearing, or
23 other proceeding in or before any court, regulatory
24 body, or other authority of the United States, a
25 State, or a political subdivision thereof, provided

1 that nothing in this subtitle shall create a defense to
2 discovery or otherwise affect the discovery of any
3 communication, document, material, or other record
4 not created for the sole purpose of preparing, draft-
5 ing, or submitting such report.

6 “(d) SHARING WITH NON-FEDERAL ENTITIES.—
7 The Agency shall anonymize the victim who reported the
8 information when making information provided in reports
9 received under section 2242 available to critical infrastruc-
10 ture owners and operators and the general public.

11 “(e) STORED COMMUNICATIONS ACT.—Nothing in
12 this subtitle shall be construed to permit or require disclo-
13 sure by a provider of a remote computing service or a pro-
14 vider of an electronic communication service to the public
15 of information not otherwise permitted or required to be
16 disclosed under chapter 121 of title 18, United States
17 Code (commonly known as the ‘Stored Communications
18 Act’).

19 **“SEC. 2246. CYBER INCIDENT REPORTING COUNCIL.**

20 “(a) RESPONSIBILITY OF THE SECRETARY.—The
21 Secretary shall lead an intergovernmental Cyber Incident
22 Reporting Council, in consultation with the Director of the
23 Office of Management and Budget, the Attorney General,
24 the National Director Cyber Director, Sector Risk Man-
25 agement Agencies, and other appropriate Federal agen-

1 cies, to coordinate, deconflict, and harmonize Federal inci-
2 dent reporting requirements, including those issued
3 through regulations.

4 “(b) **RULE OF CONSTRUCTION.**—Nothing in sub-
5 section (a) shall be construed to provide any additional
6 regulatory authority to any Federal entity.”.

7 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
8 The table of contents in section 1(b) of the Homeland Se-
9 curity Act of 2002 (Public Law 107–296; 116 Stat. 2135)
10 is amended by inserting after the items relating to subtitle
11 C of title XXII the following:

“Subtitle D—Cyber Incident Reporting

“Sec. 2240. Definitions.

“Sec. 2241. Cyber Incident Review.

“Sec. 2242. Required reporting of certain cyber incidents.

“Sec. 2243. Voluntary reporting of other cyber incidents.

“Sec. 2244. Noncompliance with required reporting.

“Sec. 2245. Information shared with or provided to the Federal Government.

“Sec. 2246. Cyber Incident Reporting Council.”.

12 **SEC. 204. FEDERAL SHARING OF INCIDENT REPORTS.**

13 (a) **CYBER INCIDENT REPORTING SHARING.**—

14 (1) **IN GENERAL.**—Notwithstanding any other
15 provision of law or regulation, any Federal agency,
16 including any independent establishment (as defined
17 in section 104 of title 5, United States Code), that
18 receives a report from an entity of a cyber incident,
19 including a ransomware attack, shall provide the re-
20 port to the Agency as soon as possible, but not later
21 than 24 hours after receiving the report, unless a

1 shorter period is required by an agreement made be-
2 tween the Department of Homeland Security (in-
3 cluding the Cybersecurity and Infrastructure Secu-
4 rity Agency) and the recipient Federal agency. The
5 Director shall share and coordinate each report pur-
6 suant to section 2241(b) of the Homeland Security
7 Act of 2002, as added by section 203 of this title.

8 (2) RULE OF CONSTRUCTION.—The require-
9 ments described in paragraph (1) and section
10 2245(d) of the Homeland Security Act of 2002, as
11 added by section 203 of this title, may not be con-
12 strued to be a violation of any provision of law or
13 policy that would otherwise prohibit disclosure or
14 provision of information within the executive branch.

15 (3) PROTECTION OF INFORMATION.—The Di-
16 rector shall comply with any obligations of the re-
17 cipient Federal agency described in paragraph (1) to
18 protect information, including with respect to pri-
19 vacy, confidentiality, or information security, if those
20 obligations would impose greater protection require-
21 ments than this Act or the amendments made by
22 this Act.

23 (4) EFFECTIVE DATE.—This subsection shall
24 take effect on the effective date of the final rule
25 issued pursuant to section 2242(b) of the Homeland

1 Security Act of 2002, as added by section 203 of
2 this title.

3 (5) AGENCY AGREEMENTS.—

4 (A) IN GENERAL.—The Agency and any
5 Federal agency, including any independent es-
6 tablishment (as defined in section 104 of title
7 5, United States Code) that receives incident
8 reports from entities, including due to
9 ransomware attacks, shall, as appropriate, enter
10 into a documented agreement to establish poli-
11 cies, processes, procedures, and mechanisms to
12 ensure reports are shared with the Agency pur-
13 suant to paragraph (1).

14 (B) AVAILABILITY.—To the maximum ex-
15 tent practicable, each documented agreement
16 required under subparagraph (A) shall be made
17 publicly available.

18 (C) REQUIREMENT.—The documented
19 agreements required by subparagraph (A) shall
20 require reports be shared from Federal agencies
21 with the Agency in such time as to meet the
22 overall timeline for covered entity reporting of
23 covered cyber incidents and ransom payments
24 established in section 2242 of the Homeland

1 Security Act of 2002, as added by section 203
2 of this title.

3 (b) HARMONIZING REPORTING REQUIREMENTS.—

4 The Secretary of Homeland Security, acting through the
5 Director, shall, in consultation with the Cyber Incident
6 Reporting Council described in section 2246 of the Home-
7 land Security Act of 2002, as added by section 203 of
8 this title, to the maximum extent practicable—

9 (1) periodically review existing regulatory re-
10 quirements, including the information required in
11 such reports, to report incidents and ensure that any
12 such reporting requirements and procedures avoid
13 conflicting, duplicative, or burdensome requirements;
14 and

15 (2) coordinate with appropriate Federal part-
16 ners and regulatory authorities that receive reports
17 relating to incidents to identify opportunities to
18 streamline reporting processes, and where feasible,
19 facilitate interagency agreements between such au-
20 thorities to permit the sharing of such reports, con-
21 sistent with applicable law and policy, without im-
22 pacting the ability of the Agency to gain timely situ-
23 ational awareness of a covered cyber incident or ran-
24 som payment.

1 **SEC. 205. RANSOMWARE VULNERABILITY WARNING PILOT**
2 **PROGRAM.**

3 (a) PROGRAM.—Not later than 1 year after the date
4 of enactment of this Act, the Director shall establish a
5 ransomware vulnerability warning pilot program to lever-
6 age existing authorities and technology to specifically de-
7 velop processes and procedures for, and to dedicate re-
8 sources to, identifying information systems that contain
9 security vulnerabilities associated with common
10 ransomware attacks, and to notify the owners of those vul-
11 nerable systems of their security vulnerability.

12 (b) IDENTIFICATION OF VULNERABLE SYSTEMS.—
13 The pilot program established under subsection (a) shall—

14 (1) identify the most common security
15 vulnerabilities utilized in ransomware attacks and
16 mitigation techniques; and

17 (2) utilize existing authorities to identify infor-
18 mation systems that contain the security
19 vulnerabilities identified in paragraph (1).

20 (c) ENTITY NOTIFICATION.—

21 (1) IDENTIFICATION.—If the Director is able to
22 identify the entity at risk that owns or operates a
23 vulnerable information system identified in sub-
24 section (b), the Director may notify the owner of the
25 information system.

1 (2) NO IDENTIFICATION.—If the Director is not
2 able to identify the entity at risk that owns or oper-
3 ates a vulnerable information system identified in
4 subsection (b), the Director may utilize the subpoena
5 authority pursuant to section 2209 of the Homeland
6 Security Act of 2002 (6 U.S.C. 659) to identify and
7 notify the entity at risk pursuant to the procedures
8 under that section.

9 (3) REQUIRED INFORMATION.—A notification
10 made under paragraph (1) shall include information
11 on the identified security vulnerability and mitiga-
12 tion techniques.

13 (d) PRIORITIZATION OF NOTIFICATIONS.—To the ex-
14 tent practicable, the Director shall prioritize covered enti-
15 ties for identification and notification activities under the
16 pilot program established under this section.

17 (e) LIMITATION ON PROCEDURES.—No procedure,
18 notification, or other authorities utilized in the execution
19 of the pilot program established under subsection (a) shall
20 require an owner or operator of a vulnerable information
21 system to take any action as a result of a notice of a secu-
22 rity vulnerability made pursuant to subsection (c).

23 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion shall be construed to provide additional authorities

1 to the Director to identify vulnerabilities or vulnerable sys-
2 tems.

3 (g) TERMINATION.—The pilot program established
4 under subsection (a) shall terminate on the date that is
5 4 years after the date of enactment of this Act.

6 **SEC. 206. RANSOMWARE THREAT MITIGATION ACTIVITIES.**

7 (a) JOINT RANSOMWARE TASK FORCE.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of enactment of this Act, the Director,
10 in consultation with the National Cyber Director,
11 the Attorney General, and the Director of the Fed-
12 eral Bureau of Investigation, shall establish and
13 chair the Joint Ransomware Task Force to coordi-
14 nate an ongoing nationwide campaign against
15 ransomware attacks, and identify and pursue oppor-
16 tunities for international cooperation.

17 (2) COMPOSITION.—The Joint Ransomware
18 Task Force shall consist of participants from Fed-
19 eral agencies, as determined appropriate by the Na-
20 tional Cyber Director in consultation with the Sec-
21 retary of Homeland Security.

22 (3) RESPONSIBILITIES.—The Joint
23 Ransomware Task Force, utilizing only existing au-
24 thorities of each participating Federal agency, shall

1 coordinate across the Federal Government the fol-
2 lowing activities:

3 (A) Prioritization of intelligence-driven op-
4 erations to disrupt specific ransomware actors.

5 (B) Consult with relevant private sector,
6 State, local, Tribal, and territorial governments
7 and international stakeholders to identify needs
8 and establish mechanisms for providing input
9 into the Joint Ransomware Task Force.

10 (C) Identifying, in consultation with rel-
11 evant entities, a list of highest threat
12 ransomware entities updated on an ongoing
13 basis, in order to facilitate—

14 (i) prioritization for Federal action by
15 appropriate Federal agencies; and

16 (ii) identify metrics for success of said
17 actions.

18 (D) Disrupting ransomware criminal ac-
19 tors, associated infrastructure, and their fi-
20 nances.

21 (E) Facilitating coordination and collabo-
22 ration between Federal entities and relevant en-
23 tities, including the private sector, to improve
24 Federal actions against ransomware threats.

1 (F) Collection, sharing, and analysis of
2 ransomware trends to inform Federal actions.

3 (G) Creation of after-action reports and
4 other lessons learned from Federal actions that
5 identify successes and failures to improve sub-
6 sequent actions.

7 (H) Any other activities determined appro-
8 priate by the Joint Ransomware Task Force to
9 mitigate the threat of ransomware attacks.

10 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion shall be construed to provide any additional authority
12 to any Federal agency.

13 **SEC. 207. CONGRESSIONAL REPORTING.**

14 (a) REPORT ON STAKEHOLDER ENGAGEMENT.—Not
15 later than 30 days after the date on which the Director
16 issues the final rule under section 2242(b) of the Home-
17 land Security Act of 2002, as added by section 203(b) of
18 this title, the Director shall submit to the Committee on
19 Homeland Security and Governmental Affairs of the Sen-
20 ate and the Committee on Homeland Security of the
21 House of Representatives a report that describes how the
22 Director engaged stakeholders in the development of the
23 final rule.

24 (b) REPORT ON OPPORTUNITIES TO STRENGTHEN
25 SECURITY RESEARCH.—Not later than 1 year after the

1 date of enactment of this Act, the Director shall submit
2 to the Committee on Homeland Security and Govern-
3 mental Affairs of the Senate and the Committee on Home-
4 land Security of the House of Representatives a report de-
5 scribing how the National Cybersecurity and Communica-
6 tions Integration Center established under section 2209
7 of the Homeland Security Act of 2002 (6 U.S.C. 659) has
8 carried out activities under section 2241(a)(9) of the
9 Homeland Security Act of 2002, as added by section
10 203(a) of this title, by proactively identifying opportunities
11 to use cyber incident data to inform and enable cybersecu-
12 rity research within the academic and private sector.

13 (c) REPORT ON RANSOMWARE VULNERABILITY
14 WARNING PILOT PROGRAM.—Not later than 1 year after
15 the date of enactment of this Act, and annually thereafter
16 for the duration of the pilot program established under
17 section 205, the Director shall submit to the Committee
18 on Homeland Security and Governmental Affairs of the
19 Senate and the Committee on Homeland Security of the
20 House of Representatives a report, which may include a
21 classified annex, on the effectiveness of the pilot program,
22 which shall include a discussion of the following:

23 (1) The effectiveness of the notifications under
24 section 205(c) in mitigating security vulnerabilities
25 and the threat of ransomware.

1 (2) Identification of the most common
2 vulnerabilities utilized in ransomware.

3 (3) The number of notifications issued during
4 the preceding year.

5 (4) To the extent practicable, the number of
6 vulnerable devices or systems mitigated under the
7 pilot program by the Agency during the preceding
8 year.

9 (d) REPORT ON HARMONIZATION OF REPORTING
10 REGULATIONS.—

11 (1) IN GENERAL.—Not later than 180 days
12 after the date on which the Secretary of Homeland
13 Security convenes the Cyber Incident Reporting
14 Council described in section 2246 of the Homeland
15 Security Act of 2002, as added by section 203 of
16 this title, the Secretary of Homeland Security shall
17 submit to the appropriate congressional committees
18 a report that includes—

19 (A) a list of duplicative Federal cyber inci-
20 dent reporting requirements on covered entities;

21 (B) a description of any challenges in har-
22 monizing the duplicative reporting require-
23 ments;

1 (C) any actions the Director intends to
2 take to facilitate harmonizing the duplicative
3 reporting requirements; and

4 (D) any proposed legislative changes nec-
5 essary to address the duplicative reporting.

6 (2) RULE OF CONSTRUCTION.—Nothing in
7 paragraph (1) shall be construed to provide any ad-
8 ditional regulatory authority to any Federal agency.

9 (e) GAO REPORTS.—

10 (1) IMPLEMENTATION OF THIS ACT.—Not later
11 than 2 years after the date of enactment of this Act,
12 the Comptroller General of the United States shall
13 submit to the Committee on Homeland Security and
14 Governmental Affairs of the Senate and the Com-
15 mittee on Homeland Security of the House of Rep-
16 resentatives a report on the implementation of this
17 Act and the amendments made by this Act.

18 (2) EXEMPTIONS TO REPORTING.—Not later
19 than 1 year after the date on which the Director
20 issues the final rule required under section 2242(b)
21 of the Homeland Security Act of 2002, as added by
22 section 203 of this title, the Comptroller General of
23 the United States shall submit to the Committee on
24 Homeland Security and Governmental Affairs of the
25 Senate and the Committee on Homeland Security of

1 the House of Representatives a report on the exemp-
2 tions to reporting under paragraphs (2) and (5) of
3 section 2242(a) of the Homeland Security Act of
4 2002, as added by section 203 of this title, which
5 shall include—

6 (A) to the extent practicable, an evaluation
7 of the quantity of cyber incidents not reported
8 to the Federal Government;

9 (B) an evaluation of the impact on im-
10 pacted entities, homeland security, and the na-
11 tional economy due to cyber incidents,
12 ransomware attacks, and ransom payments, in-
13 cluding a discussion on the scope of impact of
14 cyber incidents that were not reported to the
15 Federal Government;

16 (C) an evaluation of the burden, financial
17 and otherwise, on entities required to report
18 cyber incidents under this Act, including an
19 analysis of entities that meet the definition of
20 a small business concern under section 3 of the
21 Small Business Act (15 U.S.C. 632); and

22 (D) a description of the consequences and
23 effects of limiting covered cyber incident and
24 ransom payment reporting to only covered enti-
25 ties.

1 (f) REPORT ON EFFECTIVENESS OF ENFORCEMENT
2 MECHANISMS.—Not later than 1 year after the date on
3 which the Director issues the final rule required under sec-
4 tion 2242(b) of the Homeland Security Act of 2002, as
5 added by section 203 of this title, the Director shall sub-
6 mit to the Committee on Homeland Security and Govern-
7 mental Affairs of the Senate and the Committee on Home-
8 land Security of the House of Representatives a report on
9 the effectiveness of the enforcement mechanisms within
10 section 2244 of the Homeland Security Act of 2002, as
11 added by section 203 of this title.

12 **TITLE III—FEDERAL SECURE**
13 **CLOUD IMPROVEMENT AND**
14 **JOBS ACT OF 2022**

15 **SEC. 301. SHORT TITLE.**

16 This title may be cited as the “Federal Secure Cloud
17 Improvement and Jobs Act of 2022”.

18 **SEC. 302. FINDINGS.**

19 Congress finds the following:

20 (1) Ensuring that the Federal Government can
21 securely leverage cloud computing products and serv-
22 ices is key to expediting the modernization of legacy
23 information technology systems, increasing cyberse-
24 curity within and across departments and agencies,
25 and supporting the continued leadership of the

1 United States in technology innovation and job cre-
2 ation.

3 (2) According to independent analysis, as of
4 calendar year 2019, the size of the cloud computing
5 market had tripled since 2004, enabling more than
6 2,000,000 jobs and adding more than
7 \$200,000,000,000 to the gross domestic product of
8 the United States.

9 (3) The Federal Government, across multiple
10 presidential administrations and Congresses, has
11 continued to support the ability of agencies to move
12 to the cloud, including through—

13 (A) President Barack Obama’s “Cloud
14 First Strategy”;

15 (B) President Donald Trump’s “Cloud
16 Smart Strategy”;

17 (C) the prioritization of cloud security in
18 Executive Order 14028 (86 Fed. Reg. 26633;
19 relating to improving the nation’s cybersecu-
20 rity), which was issued by President Joe Biden;
21 and

22 (D) more than a decade of appropriations
23 and authorization legislation that provides
24 agencies with relevant authorities and appro-
25 priations to modernize on-premises information

1 technology systems and more readily adopt
2 cloud computing products and services.

3 (4) Since it was created in 2011, the Federal
4 Risk and Authorization Management Program (re-
5 ferred to in this section as “FedRAMP”) at the
6 General Services Administration has made steady
7 and sustained improvements in supporting the se-
8 cure authorization and reuse of cloud computing
9 products and services within the Federal Govern-
10 ment, including by reducing the costs and burdens
11 on both agencies and cloud companies to quickly and
12 securely enter the Federal market.

13 (5) According to data from the General Services
14 Administration, as of the end of fiscal year 2021,
15 there were 239 cloud providers with FedRAMP au-
16 thorizations, and those authorizations had been re-
17 used more than 2,700 times across various agencies.

18 (6) Providing a legislative framework for
19 FedRAMP and new authorities to the General Serv-
20 ices Administration, the Office of Management and
21 Budget, and Federal agencies will—

22 (A) improve the speed at which new cloud
23 computing products and services can be se-
24 curely authorized;

1 (B) enhance the ability of agencies to ef-
2 fectively evaluate FedRAMP authorized pro-
3 viders for reuse;

4 (C) reduce the costs and burdens to cloud
5 providers seeking a FedRAMP authorization;
6 and

7 (D) provide for more robust transparency
8 and dialogue between industry and the Federal
9 Government to drive stronger adoption of se-
10 cure cloud capabilities, create jobs, and reduce
11 wasteful legacy information technology.

12 **SEC. 303. TITLE 44 AMENDMENTS.**

13 (a) AMENDMENT.—Chapter 36 of title 44, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

16 **“§ 3607. Definitions**

17 “(a) IN GENERAL.—Except as provided under sub-
18 section (b), the definitions under sections 3502 and 3552
19 apply to this section through section 3616.

20 “(b) ADDITIONAL DEFINITIONS.—In this section
21 through section 3616:

22 “(1) ADMINISTRATOR.—The term ‘Adminis-
23 trator’ means the Administrator of General Services.

24 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
25 TEES.—The term ‘appropriate congressional com-

1 mittees’ means the Committee on Homeland Secu-
2 rity and Governmental Affairs of the Senate and the
3 Committee on Oversight and Reform of the House
4 of Representatives.

5 “(3) AUTHORIZATION TO OPERATE; FEDERAL
6 INFORMATION.—The terms ‘authorization to oper-
7 ate’ and ‘Federal information’ have the meaning
8 given those term in Circular A–130 of the Office of
9 Management and Budget entitled ‘Managing Infor-
10 mation as a Strategic Resource’, or any successor
11 document.

12 “(4) CLOUD COMPUTING.—The term ‘cloud
13 computing’ has the meaning given the term in Spe-
14 cial Publication 800–145 of the National Institute of
15 Standards and Technology, or any successor docu-
16 ment.

17 “(5) CLOUD SERVICE PROVIDER.—The term
18 ‘cloud service provider’ means an entity offering
19 cloud computing products or services to agencies.

20 “(6) FEDRAMP.—The term ‘FedRAMP’
21 means the Federal Risk and Authorization Manage-
22 ment Program established under section 3608.

23 “(7) FEDRAMP AUTHORIZATION.—The term
24 ‘FedRAMP authorization’ means a certification that
25 a cloud computing product or service has—

1 “(A) completed a FedRAMP authorization
2 process, as determined by the Administrator; or

3 “(B) received a FedRAMP provisional au-
4 thorization to operate, as determined by the
5 FedRAMP Board.

6 “(8) FEDRAMP AUTHORIZATION PACKAGE.—

7 The term ‘FedRAMP authorization package’ means
8 the essential information that can be used by an
9 agency to determine whether to authorize the oper-
10 ation of an information system or the use of a des-
11 ignated set of common controls for all cloud com-
12 puting products and services authorized by
13 FedRAMP.

14 “(9) FEDRAMP BOARD.—The term ‘FedRAMP
15 Board’ means the board established under section
16 3610.

17 “(10) INDEPENDENT ASSESSMENT SERVICE.—

18 The term ‘independent assessment service’ means a
19 third-party organization accredited by the Adminis-
20 trator to undertake conformity assessments of cloud
21 service providers and the products or services of
22 cloud service providers.

23 “(11) SECRETARY.—The term ‘Secretary’
24 means the Secretary of Homeland Security.

1 **“§ 3608. Federal Risk and Authorization Management**
2 **Program**

3 “There is established within the General Services Ad-
4 ministration the Federal Risk and Authorization Manage-
5 ment Program. The Administrator, subject to section
6 3614, shall establish a Government-wide program that
7 provides a standardized, reusable approach to security as-
8 sessment and authorization for cloud computing products
9 and services that process unclassified information used by
10 agencies.

11 **“§ 3609. Roles and responsibilities of the General**
12 **Services Administration**

13 “(a) ROLES AND RESPONSIBILITIES.—The Adminis-
14 trator shall—

15 “(1) in consultation with the Secretary, develop,
16 coordinate, and implement a process to support
17 agency review, reuse, and standardization, where ap-
18 propriate, of security assessments of cloud com-
19 puting products and services, including, as appro-
20 priate, oversight of continuous monitoring of cloud
21 computing products and services, pursuant to guid-
22 ance issued by the Director pursuant to section
23 3614;

24 “(2) establish processes and identify criteria
25 consistent with guidance issued by the Director
26 under section 3614 to make a cloud computing prod-

1 uct or service eligible for a FedRAMP authorization
2 and validate whether a cloud computing product or
3 service has a FedRAMP authorization;

4 “(3) develop and publish templates, best prac-
5 tices, technical assistance, and other materials to
6 support the authorization of cloud computing prod-
7 ucts and services and increase the speed, effective-
8 ness, and transparency of the authorization process,
9 consistent with standards and guidelines established
10 by the Director of the National Institute of Stand-
11 ards and Technology and relevant statutes;

12 “(4) establish and update guidance on the
13 boundaries of FedRAMP authorization packages to
14 enhance the security and protection of Federal infor-
15 mation and promote transparency for agencies and
16 users as to which services are included in the scope
17 of a FedRAMP authorization;

18 “(5) grant FedRAMP authorizations to cloud
19 computing products and services consistent with the
20 guidance and direction of the FedRAMP Board;

21 “(6) establish and maintain a public comment
22 process for proposed guidance and other FedRAMP
23 directives that may have a direct impact on cloud
24 service providers and agencies before the issuance of
25 such guidance or other FedRAMP directives;

1 “(7) coordinate with the FedRAMP Board, the
2 Director of the Cybersecurity and Infrastructure Se-
3 curity Agency, and other entities identified by the
4 Administrator, with the concurrence of the Director
5 and the Secretary, to establish and regularly update
6 a framework for continuous monitoring under sec-
7 tion 3553;

8 “(8) provide a secure mechanism for storing
9 and sharing necessary data, including FedRAMP
10 authorization packages, to enable better reuse of
11 such packages across agencies, including making
12 available any information and data necessary for
13 agencies to fulfill the requirements of section 3613;

14 “(9) provide regular updates to applicant cloud
15 service providers on the status of any cloud com-
16 puting product or service during an assessment
17 process;

18 “(10) regularly review, in consultation with the
19 FedRAMP Board—

20 “(A) the costs associated with the inde-
21 pendent assessment services described in section
22 3611; and

23 “(B) the information relating to foreign in-
24 terests submitted pursuant to section 3612;

1 “(11) in coordination with the Director of the
2 National Institute of Standards and Technology, the
3 Director, the Secretary, and other stakeholders, as
4 appropriate, determine the sufficiency of underlying
5 standards and requirements to identify and assess
6 the provenance of the software in cloud services and
7 products;

8 “(12) support the Federal Secure Cloud Advi-
9 sory Committee established pursuant to section
10 3616; and

11 “(13) take such other actions as the Adminis-
12 trator may determine necessary to carry out
13 FedRAMP.

14 “(b) WEBSITE.—

15 “(1) IN GENERAL.—The Administrator shall
16 maintain a public website to serve as the authori-
17 tative repository for FedRAMP, including the timely
18 publication and updates for all relevant information,
19 guidance, determinations, and other materials re-
20 quired under subsection (a).

21 “(2) CRITERIA AND PROCESS FOR FEDRAMP
22 AUTHORIZATION PRIORITIES.—The Administrator
23 shall develop and make publicly available on the
24 website described in paragraph (1) the criteria and
25 process for prioritizing and selecting cloud com-

1 puting products and services that will receive a
2 FedRAMP authorization, in consultation with the
3 FedRAMP Board and the Chief Information Offi-
4 cers Council.

5 “(c) EVALUATION OF AUTOMATION PROCEDURES.—

6 “(1) IN GENERAL.—The Administrator, in co-
7 ordination with the Secretary, shall assess and
8 evaluate available automation capabilities and proce-
9 dures to improve the efficiency and effectiveness of
10 the issuance of FedRAMP authorizations, including
11 continuous monitoring of cloud computing products
12 and services.

13 “(2) MEANS FOR AUTOMATION.—Not later than
14 1 year after the date of enactment of this section,
15 and updated regularly thereafter, the Administrator
16 shall establish a means for the automation of secu-
17 rity assessments and reviews.

18 “(d) METRICS FOR AUTHORIZATION.—The Adminis-
19 trator shall establish annual metrics regarding the time
20 and quality of the assessments necessary for completion
21 of a FedRAMP authorization process in a manner that
22 can be consistently tracked over time in conjunction with
23 the periodic testing and evaluation process pursuant to
24 section 3554 in a manner that minimizes the agency re-
25 porting burden.

1 **“§ 3610. FedRAMP Board**

2 “(a) ESTABLISHMENT.—There is established a
3 FedRAMP Board to provide input and recommendations
4 to the Administrator regarding the requirements and
5 guidelines for, and the prioritization of, security assess-
6 ments of cloud computing products and services.

7 “(b) MEMBERSHIP.—The FedRAMP Board shall
8 consist of not more than 7 senior officials or experts from
9 agencies appointed by the Director, in consultation with
10 the Administrator, from each of the following:

11 “(1) The Department of Defense.

12 “(2) The Department of Homeland Security.

13 “(3) The General Services Administration.

14 “(4) Such other agencies as determined by the
15 Director, in consultation with the Administrator.

16 “(c) QUALIFICATIONS.—Members of the FedRAMP
17 Board appointed under subsection (b) shall have technical
18 expertise in domains relevant to FedRAMP, such as—

19 “(1) cloud computing;

20 “(2) cybersecurity;

21 “(3) privacy;

22 “(4) risk management; and

23 “(5) other competencies identified by the Direc-
24 tor to support the secure authorization of cloud serv-
25 ices and products.

26 “(d) DUTIES.—The FedRAMP Board shall—

1 “(1) in consultation with the Administrator,
2 serve as a resource for best practices to accelerate
3 the process for obtaining a FedRAMP authorization;

4 “(2) establish and regularly update require-
5 ments and guidelines for security authorizations of
6 cloud computing products and services, consistent
7 with standards and guidelines established by the Di-
8 rector of the National Institute of Standards and
9 Technology, to be used in the determination of
10 FedRAMP authorizations;

11 “(3) monitor and oversee, to the greatest extent
12 practicable, the processes and procedures by which
13 agencies determine and validate requirements for a
14 FedRAMP authorization, including periodic review
15 of the agency determinations described in section
16 3613(b);

17 “(4) ensure consistency and transparency be-
18 tween agencies and cloud service providers in a man-
19 ner that minimizes confusion and engenders trust;
20 and

21 “(5) perform such other roles and responsibil-
22 ities as the Director may assign, with concurrence
23 from the Administrator.

24 “(e) DETERMINATIONS OF DEMAND FOR CLOUD
25 COMPUTING PRODUCTS AND SERVICES.—The FedRAMP

1 Board may consult with the Chief Information Officers
2 Council to establish a process, which may be made avail-
3 able on the website maintained under section 3609(b), for
4 prioritizing and accepting the cloud computing products
5 and services to be granted a FedRAMP authorization.

6 **“§ 3611. Independent assessment**

7 “The Administrator may determine whether
8 FedRAMP may use an independent assessment service to
9 analyze, validate, and attest to the quality and compliance
10 of security assessment materials provided by cloud service
11 providers during the course of a determination of whether
12 to use a cloud computing product or service.

13 **“§ 3612. Declaration of foreign interests**

14 “(a) IN GENERAL.—An independent assessment serv-
15 ice that performs services described in section 3611 shall
16 annually submit to the Administrator information relating
17 to any foreign interest, foreign influence, or foreign con-
18 trol of the independent assessment service.

19 “(b) UPDATES.—Not later than 48 hours after there
20 is a change in foreign ownership or control of an inde-
21 pendent assessment service that performs services de-
22 scribed in section 3611, the independent assessment serv-
23 ice shall submit to the Administrator an update to the in-
24 formation submitted under subsection (a).

1 “(c) CERTIFICATION.—The Administrator may re-
2 quire a representative of an independent assessment serv-
3 ice to certify the accuracy and completeness of any infor-
4 mation submitted under this section.

5 **“§ 3613. Roles and responsibilities of agencies**

6 “(a) IN GENERAL.—In implementing the require-
7 ments of FedRAMP, the head of each agency shall, con-
8 sistent with guidance issued by the Director pursuant to
9 section 3614—

10 “(1) promote the use of cloud computing prod-
11 ucts and services that meet FedRAMP security re-
12 quirements and other risk-based performance re-
13 quirements as determined by the Director, in con-
14 sultation with the Secretary;

15 “(2) confirm whether there is a FedRAMP au-
16 thorization in the secure mechanism provided under
17 section 3609(a)(8) before beginning the process of
18 granting a FedRAMP authorization for a cloud com-
19 puting product or service;

20 “(3) to the extent practicable, for any cloud
21 computing product or service the agency seeks to au-
22 thorize that has received a FedRAMP authorization,
23 use the existing assessments of security controls and
24 materials within any FedRAMP authorization pack-
25 age for that cloud computing product or service; and

1 “(4) provide to the Director data and informa-
2 tion required by the Director pursuant to section
3 3614 to determine how agencies are meeting metrics
4 established by the Administrator.

5 “(b) ATTESTATION.—Upon completing an assess-
6 ment or authorization activity with respect to a particular
7 cloud computing product or service, if an agency deter-
8 mines that the information and data the agency has re-
9 viewed under paragraph (2) or (3) of subsection (a) is
10 wholly or substantially deficient for the purposes of per-
11 forming an authorization of the cloud computing product
12 or service, the head of the agency shall document as part
13 of the resulting FedRAMP authorization package the rea-
14 sons for this determination.

15 “(c) SUBMISSION OF AUTHORIZATIONS TO OPERATE
16 REQUIRED.—Upon issuance of an agency authorization to
17 operate based on a FedRAMP authorization, the head of
18 the agency shall provide a copy of its authorization to op-
19 erate letter and any supplementary information required
20 pursuant to section 3609(a) to the Administrator.

21 “(d) SUBMISSION OF POLICIES REQUIRED.—Not
22 later than 180 days after the date on which the Director
23 issues guidance in accordance with section 3614(1), the
24 head of each agency, acting through the chief information
25 officer of the agency, shall submit to the Director all agen-

1 cy policies relating to the authorization of cloud computing
2 products and services.

3 “(e) PRESUMPTION OF ADEQUACY.—

4 “(1) IN GENERAL.—The assessment of security
5 controls and materials within the authorization
6 package for a FedRAMP authorization shall be pre-
7 sumed adequate for use in an agency authorization
8 to operate cloud computing products and services.

9 “(2) INFORMATION SECURITY REQUIRE-
10 MENTS.—The presumption under paragraph (1)
11 does not modify or alter—

12 “(A) the responsibility of any agency to en-
13 sure compliance with subchapter II of chapter
14 35 for any cloud computing product or service
15 used by the agency; or

16 “(B) the authority of the head of any
17 agency to make a determination that there is a
18 demonstrable need for additional security re-
19 quirements beyond the security requirements
20 included in a FedRAMP authorization for a
21 particular control implementation.

22 **“§ 3614. Roles and responsibilities of the Office of**
23 **Management and Budget**

24 “The Director shall—

1 “(1) in consultation with the Administrator and
2 the Secretary, issue guidance that—

3 “(A) specifies the categories or characteris-
4 tics of cloud computing products and services
5 that are within the scope of FedRAMP;

6 “(B) includes requirements for agencies to
7 obtain a FedRAMP authorization when oper-
8 ating a cloud computing product or service de-
9 scribed in subparagraph (A) as a Federal infor-
10 mation system; and

11 “(C) encompasses, to the greatest extent
12 practicable, all necessary and appropriate cloud
13 computing products and services;

14 “(2) issue guidance describing additional re-
15 sponsibilities of FedRAMP and the FedRAMP
16 Board to accelerate the adoption of secure cloud
17 computing products and services by the Federal
18 Government;

19 “(3) in consultation with the Administrator, es-
20 tablish a process to periodically review FedRAMP
21 authorization packages to support the secure author-
22 ization and reuse of secure cloud products and serv-
23 ices;

24 “(4) oversee the effectiveness of FedRAMP and
25 the FedRAMP Board, including the compliance by

1 the FedRAMP Board with the duties described in
2 section 3610(d); and

3 “(5) to the greatest extent practicable, encour-
4 age and promote consistency of the assessment, au-
5 thorization, adoption, and use of secure cloud com-
6 puting products and services within and across agen-
7 cies.

8 **“§ 3615. Reports to Congress; GAO report**

9 “(a) REPORTS TO CONGRESS.—Not later than 1 year
10 after the date of enactment of this section, and annually
11 thereafter, the Director shall submit to the appropriate
12 congressional committees a report that includes the fol-
13 lowing:

14 “(1) During the preceding year, the status, effi-
15 ciency, and effectiveness of the General Services Ad-
16 ministration under section 3609 and agencies under
17 section 3613 and in supporting the speed, effective-
18 ness, sharing, reuse, and security of authorizations
19 to operate for secure cloud computing products and
20 services.

21 “(2) Progress towards meeting the metrics re-
22 quired under section 3609(d).

23 “(3) Data on FedRAMP authorizations.

24 “(4) The average length of time to issue
25 FedRAMP authorizations.

1 “(5) The number of FedRAMP authorizations
2 submitted, issued, and denied for the preceding year.

3 “(6) A review of progress made during the pre-
4 ceding year in advancing automation techniques to
5 securely automate FedRAMP processes and to accel-
6 erate reporting under this section.

7 “(7) The number and characteristics of author-
8 ized cloud computing products and services in use at
9 each agency consistent with guidance provided by
10 the Director under section 3614.

11 “(8) A review of FedRAMP measures to ensure
12 the security of data stored or processed by cloud
13 service providers, which may include—

14 “(A) geolocation restrictions for provided
15 products or services;

16 “(B) disclosures of foreign elements of
17 supply chains of acquired products or services;

18 “(C) continued disclosures of ownership of
19 cloud service providers by foreign entities; and

20 “(D) encryption for data processed, stored,
21 or transmitted by cloud service providers.

22 “(b) GAO REPORT.—Not later than 180 days after
23 the date of enactment of this section, the Comptroller
24 General of the United States shall report to the appro-

1 p r i a t e c o n g r e s s i o n a l c o m m i t t e e s a n a s s e s s m e n t o f t h e f o l -
2 l o w i n g :

3 “(1) The costs incurred by agencies and cloud
4 service providers relating to the issuance of
5 FedRAMP authorizations.

6 “(2) The extent to which agencies have proc-
7 esses in place to continuously monitor the implemen-
8 tation of cloud computing products and services op-
9 erating as Federal information systems.

10 “(3) How often and for which categories of
11 products and services agencies use FedRAMP au-
12 thorizations.

13 “(4) The unique costs and potential burdens in-
14 curred by cloud computing companies that are small
15 business concerns (as defined in section 3(a) of the
16 Small Business Act (15 U.S.C. 632(a)) as a part of
17 the FedRAMP authorization process.

18 **“§ 3616. Federal Secure Cloud Advisory Committee**

19 “(a) ESTABLISHMENT, PURPOSES, AND DUTIES.—

20 “(1) ESTABLISHMENT.—There is established a
21 Federal Secure Cloud Advisory Committee (referred
22 to in this section as the ‘Committee’) to ensure ef-
23 fective and ongoing coordination of agency adoption,
24 use, authorization, monitoring, acquisition, and secu-

1 rity of cloud computing products and services to en-
2 able agency mission and administrative priorities.

3 “(2) PURPOSES.—The purposes of the Com-
4 mittee are the following:

5 “(A) To examine the operations of
6 FedRAMP and determine ways that authoriza-
7 tion processes can continuously be improved, in-
8 cluding the following:

9 “(i) Measures to increase agency
10 reuse of FedRAMP authorizations.

11 “(ii) Proposed actions that can be
12 adopted to reduce the burden, confusion,
13 and cost associated with FedRAMP au-
14 thorizations for cloud service providers.

15 “(iii) Measures to increase the num-
16 ber of FedRAMP authorizations for cloud
17 computing products and services offered by
18 small businesses concerns (as defined by
19 section 3(a) of the Small Business Act (15
20 U.S.C. 632(a)).

21 “(iv) Proposed actions that can be
22 adopted to reduce the burden and cost of
23 FedRAMP authorizations for agencies.

1 “(B) Collect information and feedback on
2 agency compliance with and implementation of
3 FedRAMP requirements.

4 “(C) Serve as a forum that facilitates com-
5 munication and collaboration among the
6 FedRAMP stakeholder community.

7 “(3) DUTIES.—The duties of the Committee in-
8 clude providing advice and recommendations to the
9 Administrator, the FedRAMP Board, and agencies
10 on technical, financial, programmatic, and oper-
11 ational matters regarding secure adoption of cloud
12 computing products and services.

13 “(b) MEMBERS.—

14 “(1) COMPOSITION.—The Committee shall be
15 comprised of not more than 15 members who are
16 qualified representatives from the public and private
17 sectors, appointed by the Administrator, in consulta-
18 tion with the Director, as follows:

19 “(A) The Administrator or the Administra-
20 tor’s designee, who shall be the Chair of the
21 Committee.

22 “(B) At least 1 representative each from
23 the Cybersecurity and Infrastructure Security
24 Agency and the National Institute of Standards
25 and Technology.

1 “(C) At least 2 officials who serve as the
2 Chief Information Security Officer within an
3 agency, who shall be required to maintain such
4 a position throughout the duration of their serv-
5 ice on the Committee.

6 “(D) At least 1 official serving as Chief
7 Procurement Officer (or equivalent) in an agen-
8 cy, who shall be required to maintain such a po-
9 sition throughout the duration of their service
10 on the Committee.

11 “(E) At least 1 individual representing an
12 independent assessment service.

13 “(F) At least 5 representatives from
14 unique businesses that primarily provide cloud
15 computing services or products, including at
16 least 2 representatives from a small business
17 concern (as defined by section 3(a) of the Small
18 Business Act (15 U.S.C. 632(a))).

19 “(G) At least 2 other representatives of the
20 Federal Government as the Administrator de-
21 termines necessary to provide sufficient balance,
22 insights, or expertise to the Committee.

23 “(2) DEADLINE FOR APPOINTMENT.—Each
24 member of the Committee shall be appointed not

1 later than 90 days after the date of enactment of
2 this section.

3 “(3) PERIOD OF APPOINTMENT; VACANCIES.—

4 “(A) IN GENERAL.—Each non-Federal
5 member of the Committee shall be appointed
6 for a term of 3 years, except that the initial
7 terms for members may be staggered 1-, 2-, or
8 3-year terms to establish a rotation in which
9 one-third of the members are selected each
10 year. Any such member may be appointed for
11 not more than 2 consecutive terms.

12 “(B) VACANCIES.—Any vacancy in the
13 Committee shall not affect its powers, but shall
14 be filled in the same manner in which the origi-
15 nal appointment was made. Any member ap-
16 pointed to fill a vacancy occurring before the
17 expiration of the term for which the member’s
18 predecessor was appointed shall be appointed
19 only for the remainder of that term. A member
20 may serve after the expiration of that member’s
21 term until a successor has taken office.

22 “(c) MEETINGS AND RULES OF PROCEDURES.—

23 “(1) MEETINGS.—The Committee shall hold
24 not fewer than 3 meetings in a calendar year, at
25 such time and place as determined by the Chair.

1 “(2) INITIAL MEETING.—Not later than 120
2 days after the date of enactment of this section, the
3 Committee shall meet and begin the operations of
4 the Committee.

5 “(3) RULES OF PROCEDURE.—The Committee
6 may establish rules for the conduct of the business
7 of the Committee if such rules are not inconsistent
8 with this section or other applicable law.

9 “(d) EMPLOYEE STATUS.—

10 “(1) IN GENERAL.—A member of the Com-
11 mittee (other than a member who is appointed to the
12 Committee in connection with another Federal ap-
13 pointment) shall not be considered an employee of
14 the Federal Government by reason of any service as
15 such a member, except for the purposes of section
16 5703 of title 5, relating to travel expenses.

17 “(2) PAY NOT PERMITTED.—A member of the
18 Committee covered by paragraph (1) may not receive
19 pay by reason of service on the Committee.

20 “(e) APPLICABILITY TO THE FEDERAL ADVISORY
21 COMMITTEE ACT.—Section 14 of the Federal Advisory
22 Committee Act (5 U.S.C. App.) shall not apply to the
23 Committee.

24 “(f) DETAIL OF EMPLOYEES.—Any Federal Govern-
25 ment employee may be detailed to the Committee without

1 reimbursement from the Committee, and such detailee
2 shall retain the rights, status, and privileges of his or her
3 regular employment without interruption.

4 “(g) POSTAL SERVICES.—The Committee may use
5 the United States mails in the same manner and under
6 the same conditions as agencies.

7 “(h) REPORTS.—

8 “(1) INTERIM REPORTS.—The Committee may
9 submit to the Administrator and Congress interim
10 reports containing such findings, conclusions, and
11 recommendations as have been agreed to by the
12 Committee.

13 “(2) ANNUAL REPORTS.—Not later than 540
14 days after the date of enactment of this section, and
15 annually thereafter, the Committee shall submit to
16 the Administrator and Congress a report containing
17 such findings, conclusions, and recommendations as
18 have been agreed to by the Committee.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—

20 The table of sections for chapter 36 of title 44, United
21 States Code, is amended by adding at the end the fol-
22 lowing new items:

“3607. Definitions.

“3608. Federal Risk and Authorization Management Program.

“3609. Roles and responsibilities of the General Services Administration.

“3610. FedRAMP Board.

“3611. Independent assessment.

“3612. Declaration of foreign interests.

“3613. Roles and responsibilities of agencies.

“3614. Roles and responsibilities of the Office of Management and Budget.

“3615. Reports to Congress; GAO report.

“3616. Federal Secure Cloud Advisory Committee.”.

1 (c) SUNSET.—

2 (1) IN GENERAL.—Effective on the date that is
3 5 years after the date of enactment of this Act,
4 chapter 36 of title 44, United States Code, is
5 amended by striking sections 3607 through 3616.

6 (2) CONFORMING AMENDMENT.—Effective on
7 the date that is 5 years after the date of enactment
8 of this Act, the table of sections for chapter 36 of
9 title 44, United States Code, is amended by striking
10 the items relating to sections 3607 through 3616.

11 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion or any amendment made by this section shall be con-
13 strued as altering or impairing the authorities of the Di-
14 rector of the Office of Management and Budget or the
15 Secretary of Homeland Security under subchapter II of
16 chapter 35 of title 44, United States Code.