AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____

OFFERED BY MRS. CAROLYN B. MALONEY OF
NEW YORK

Strike all after the enacting clause and insert the
following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Artificial Intelligence
for Agency Impact Act" or the "AI for Agency Impact
Act".

SEC. 2. AI STRATEGY, OBJECTIVES, AND METRICS PLANS.

(a) AMENDMENT.—Chapter 3 of title 5, United
States Code, is amended by adding at the end the fol-
lowing new subchapter:

"SUBCHAPTER III—ARTIFICIAL INTELLIGENCE

"§ 321. Definitions

"In this subchapter:

"(1) AGENCY.—The term 'agency' has the
meaning given that term in paragraph (1) of section
3502 of title 44, United States Code, except that
term shall not include independent regulatory agen-
cies (as defined in paragraph (5) of such section).

1 ''(2) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term 'appropriate congressional com-
3 mittees' means the Committee on Oversight and Re-
4 form of the House of Representatives and the Com-
5 mittee on Homeland Security and Governmental Af-
6 fairs of the Senate.

7 ''(3) ARTIFICIAL INTELLIGENCE.—The term
8 'artificial intelligence' has the meaning given that
9 term in section 238(g) of the John S. McCain Na-
10 tional Defense Authorization Act for Fiscal Year
11 2019 (Public Law 115–232; 10 U.S.C. 2358 note).

12 ''(4) DIRECTOR.—The term 'Director' means
13 the Director of the Office of Management and Budg-
14 et.

15 ''(5) RELIABILITY.—The term 'reliability'
16 means, with respect to the artificial intelligence, the
17 extent to which—

18 ''(A) data collected for use by the artificial
19 intelligence is a valid measure of the underlying
20 concepts addressed in the objectives of using
21 the artificial intelligence;

22 ''(B) the safety, security, and robustness
23 has been tested and assured across each phase
24 of development and use of the artificial intel-
25 ligence according to defined objectives;

3

1   ''(C) data records and fields are present

2   and sufficiently populated; and

3   ''(D) data records reflect the actual under-

4   lying information.

5   ''(6) REPRESENTATIVENESS.—The term 'rep-

6 resentativeness' means the extent to which data sets

7 used for training the artificial intelligence is rep-

8 resentative of the population or operational environ-

9 ment to be assessed by the artificial intelligence.

10 **''§ 322. AI Strategy, Objectives, and Metrics Plan**

11   ''(a) AI STRATEGY, OBJECTIVES, AND METRICS

12 PLAN.—The head of each agency shall establish an AI

13 Strategy, Objectives, and Metrics Plan that contains strat-

14 egies, objectives, and metrics for the trustworthy adoption

15 of artificial intelligence by the agency to better achieve the

16 mission of the agency to serve the people of the United

17 States, including the following:

18   ''(1) Defined roles, responsibilities, and delega-

19   tion of authority for the use and oversight of artifi-

20   cial intelligence used by the agency, including over-

21   sight of compliance with relevant laws, regulations,

22   standards, and guidance.

23   ''(2) Defined values, ethics, and principles to

24   foster public trust and responsible use of artificial

25   intelligence by the agency.

1 ''(3) Procedures—

2 ''(A) to ensure the security and privacy of

3 data used by artificial intelligence used by the

4 agency; and

5 ''(B) for human supervision of, and ac-

6 countability for, artificial intelligence used by

7 the agency.

8 ''(4) For each artificial intelligence used by the

9 agency at the time the plan is established—

10 ''(A) performance objectives and accom-

11 panying metrics that clearly reflect or convey

12 the intended purpose of the artificial intel-

13 ligence;

14 ''(B) a process—

15 ''(i) for the continuous or routine

16 monitoring and assessment the perform-

17 ance of the artificial intelligence against

18 the objectives and metrics established for

19 the artificial intelligence under subpara-

20 graph (A) to ensure that the artificial in-

21 telligence functions as intended and carries

22 out the goals and objectives of using the

23 artificial intelligence; and

24 ''(ii) that includes a plan to systemati-

25 cally identify, analyze, and mitigate any

1 risks associated with the artificial intel-

2 ligence; and

3 ''(C) documentation demonstrating that

4 the artificial intelligence relies on high quality,

5 reliable, representative data, including—

6 ''(i) the sources and origins of data

7 used to train each artificial intelligence;

8 and

9 ''(ii) assessments of the reliability,

10 quality, and representativeness of—

11 ''(I) data used to train the artifi-

12 cial intelligence;

13 ''(II) attributes used to cat-

14 egorize data;

15 ''(III) data variables used by the

16 artificial intelligence; and

17 ''(IV) interconnectivities and de-

18 pendencies of data streams that

19 operationalize the artificial intel-

20 ligence;

21 ''(iii) a description of the range of

22 data and model drift that is acceptable for

23 each artificial intelligence; and

24 ''(iv) a description of the actions an

25 agency has taken, is taking, or plans to

1 take to address any potential biases, in-
2 equities, and other societal concerns associ-
3 ated with each artificial intelligence, in-
4 cluding a detailed justification and cost-
5 benefit analysis for the continued use of
6 any artificial intelligence that raises poten-
7 tial biases, inequities, and other societal
8 concerns.

9 ''(5) Performance objectives and accompanying
10 metrics, for each opportunity identified by the agen-
11 cy to incorporate the use of artificial intelligence into
12 the platforms, processes, and operations of the agen-
13 cy.

14 ''(6) A description of how artificial intelligence
15 used by the agency are monitored, including a de-
16 scription of any actions taken to correct the func-
17 tioning or performance of the artificial intelligence.

18 ''(7) A description of how information on the
19 design, operation, limitations, and updates of the ar-
20 tificial intelligence is made available to the public.

21 ''(b) RELATIONSHIP TO EXECUTIVE ORDER 13859,
22 MEMORANDA.—A plan developed under subsection (a) by
23 an agency shall be consistent with—

24 ''(1) section 3 of Executive Order 13960 (89
25 Fed. Reg. 13859) titled 'Promoting the Use of

1 Trustworthy Artificial Intelligence in the Federal

2 Government', issued on December 8, 2020; and

3 ''(2) the memorandum issued by the Director to

4 the agency under section 104 of the AI in Govern-

5 ment Act of 2020 (Public Law 116–260; 40 U.S.C.

6 11301 note).

7 ''(c) REPORTS.—

8 ''(1) INITIAL REPORT.—Not later than 180

9 days after the memorandum required by section

10 104(a) of the AI in Government Act of 2020 (Public

11 Law 116–260; 40 U.S.C. 11301 note) is issued, the

12 head of each agency shall submit to the Director,

13 the Inspector General of the agency, and the appro-

14 priate congressional committees a report that con-

15 tains—

16 ''(A) the AI Strategy, Objectives, and

17 Metrics Plan established by the agency under

18 subsection (a);

19 ''(B) an inventory (including a catalogue of

20 model and non-model components, specifica-

21 tions, and parameters) of all artificial intel-

22 ligence in use by the agency, in accordance with

23 the guidance issued under paragraph (3); and

24 ''(C) a description and assessment of op-

25 portunities to incorporate the use of artificial

1   intelligence into the platforms, processes, and
2   operations of the agency to enhance the effec-
3   tiveness of the agency in accomplishing the mis-
4   sion, operations, and programs of the agency,
5   including known and potential biases, inequi-
6   ties, and other societal concerns associated with
7   each such opportunity.

8   ''(2) PROGRESS REPORTS.—In 2023, and every
9   two years thereafter until 2033, the head of each
10   agency shall submit to the Director and the appro-
11   priate congressional committees a report—

12   ''(A) on the implementation of the AI
13   Strategy, Objectives, and Metrics Plan estab-
14   lished by the agency under subsection (a); and

15   ''(B) that identifies and assesses any op-
16   portunities for, and risks any associated with,
17   the use, or potential use, of artificial intel-
18   ligence by the agency.

19   ''(3) AGENCY INVENTORY GUIDANCE.—Not
20   later than 30 days after the date of the enactment
21   of this Act, the Chief Information Officers Council
22   shall issue, and make publicly available, guidance
23   that includes the criteria, format, and mechanisms
24   for the inventory required to be included in the re-
25   port under paragraph (1).

9

1 "(4) REPORTING RECIPROCITY.—The reports

2 required by paragraphs (1) and (2) shall fulfill the

3 requirements of the AI in Government Act of 2020

4 (Public Law 116–260; 40 U.S.C. 11301 note) and

5 subsections (b) and (c) of section 5 of Executive

6 Order 13960 (89 Fed. Reg. 13859) titled 'Pro-

7 moting the Use of Trustworthy Artificial Intelligence

8 in the Federal Government', issued on December 8,

9 2020, and shall include all information required by

10 such provisions.

11 "(d) CONSULTATION.—In developing a plan required

12 to be submitted under subsection (a) and the reports re-

13 quired by subsection (c), the head of the agency shall con-

14 sult with the National Cyber Director and the heads of

15 the National Artificial Intelligence Initiative Office, the

16 National Artificial Intelligence Advisory Committee, the

17 Artificial Intelligence Center of Excellence.

18 "(e) CLASSIFIED ANNEX.—The reports required by

19 paragraphs (1) and (2) of subsection (b) shall be made

20 publicly available upon submission to the entities described

21 in such paragraphs, but such reports may include a classi-

22 fied annex, provided that information required by clause

23 (C)(iv) of paragraph (4) of subsection (a), and any known

24 and potential biases, inequities, and other societal con-

10

1 cerns identified in the report required by subsection (c),

2 are reported publicly.

3   ''(f) RULE OF CONSTRUCTION.—Nothing in this sub-

4 chapter may be construed as authorizing the use by agen-

5 cies of, or an appropriation for, artificial intelligence.''.

6   (b) CLERICAL AMENDMENT.—The table of contents

7 for chapter 3 of title 5, United States Code, is amended

8 by adding after the item relating to section 315 the fol-

9 lowing:

''SUBCHAPTER III—ARTIFICIAL INTELLIGENCE

''321. Definitions
''322. AI strategy, objectives, and metrics plans required''.

☒