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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To require governmentwide source code sharing, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. LANGWORTHY introduced the following bill; which was referred to the Committee on _____

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A BILL

To require governmentwide source code sharing, 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 "Source code Harmoni-

5   zation And Reuse in Information Technology Act" or the

6   "SHARE IT Act".

7   **SEC. 2. DEFINITIONS.**

8   In this Act:

2

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

4   (2) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—The term "appropriate congressional com-
6 mittees" means the Committee on Homeland Secu-
7 rity and Governmental Affairs of the Senate and the
8 Committee on Oversight and Accountability of the
9 House of Representatives.

10   (3) CUSTOM-DEVELOPED CODE.—The term
11 "custom-developed code"—

12   (A) means source code that is—

13   (i) produced in the performance of a
14   contract with an agency or is otherwise ex-
15   clusively funded by the Federal Govern-
16   ment; or

17   (ii) developed by a Federal employee
18   as part of the official duties of the em-
19   ployee;

20   (B) includes—

21   (i) source code, or segregable portions
22   of source code, for which the Federal Gov-
23   ernment could obtain unlimited rights
24   under part 27 of the Federal Acquisition

1 Regulation or any relevant supplemental

2 acquisition regulations of an agency; and

3 (ii) source code written for a software

4 project, module, plugin, script, middleware,

5 or application programming interface; and

6 (C) does not include—

7 (i) source code that is solely explor-

8 atory or disposable in nature, including

9 source code written by a developer experi-

10 menting with a new language or library; or

11 (ii) commercial computer software,

12 commercial off-the-shelf software, or con-

13 figuration scripts for such software.

14 (4) FEDERAL EMPLOYEE.—The term "Federal

15 employee" has the meaning given the term in section

16 2105(a) of title 5, United States Code.

17 (5) METADATA.—The term "metadata", with

18 respect to custom-developed code—

19 (A) has the meaning given that term in

20 section 3502 of title 44, United States Code;

21 and

22 (B) includes—

23 (i) information on whether the cus-

24 tom-developed code was—

1   (I) produced pursuant to a con-

2   tract; or

3   (II) shared in a public or private

4   repository;

5   (ii) any contract number under which

6   the custom-developed code was produced;

7   and

8   (iii) any hyperlink to the repository in

9   such the code was shared.

10   (6) PRIVATE REPOSITORY.—The term "private

11 repository" means a software storage location—

12   (A) that contains source code, documenta-

13   tion, and other files; and

14   (B) access to which is restricted to only

15   authorized users.

16   (7) PUBLIC REPOSITORY.—The term "public

17 repository" means a software storage location—

18   (A) that contains source code, documenta-

19   tion, and other files; and

20   (B) access to which is open to the public.

21   (8) SOFTWARE.—The term "software" has the

22 meaning given the term "computer software" in sec-

23 tion 2.101 of title 48, Code of Federal Regulations,

24 or any successor regulation.

5

1   (9) SOURCE CODE.—The term "source code"

2 means a collection of computer commands written in

3 a computer programming language that a computer

4 can execute as a piece of software.

5 **SEC. 3. SOFTWARE REUSE.**

6   (a) SHARING.—Not later than 210 days after the

7 date of enactment of this Act, the head of each agency

8 shall ensure that the custom-developed code of the agency

9 and other key technical components (including documenta-

10 tion, data models, schemas, metadata, and architecture

11 designs) of the code is—

12   (1) stored at not less than 1 public repository

13   or private repository;

14   (2) accessible to Federal employees via proce-

15   dures developed under subsection (d)(1)(A)(ii)(III);

16   and

17   (3) owned by the agency.

18   (b) SOFTWARE REUSE RIGHTS IN PROCUREMENT

19 CONTRACTS.—The head of an agency that enters into a

20 contract for the custom development of software for use

21 by the agency shall acquire and exercise rights sufficient

22 to enable the governmentwide access to, sharing of, use

23 of, and modification of any custom-developed code created

24 in the development of such software.

6

1 (c) DISCOVERY.—Not later than 210 days after the
2 date of enactment of this Act, the head of each agency
3 shall make metadata created on or after such date for the
4 custom-developed code of the agency publicly accessible.

5 (d) ACCOUNTABILITY MECHANISMS.—

6 (1) AGENCY CIOS.—Not later than 180 days
7 after the date of enactment of this Act, the Chief In-
8 formation Officer of each agency, in consultation
9 with the Chief Acquisition Officer, or similar official,
10 of the agency and the Federal Chief Information Of-
11 ficer, shall develop an agency-wide policy that—

12 (A) implements the requirements of this
13 Act, including—

14 (i) ensuring that custom-developed
15 code follows the best practices established
16 by the Director of the Office and Manage-
17 ment and Budget under paragraph (3) for
18 operating repositories and version control
19 systems to keep track of changes and to
20 facilitate collaboration among multiple de-
21 velopers; and

22 (ii) managing the sharing of custom-
23 developed code under subsection (b), and
24 the public accessibility of metadata under
25 subsection (c), including developing—

1   (I) procedures to determine
2   whether any custom-developed code
3   meets the conditions under section
4   4(b) for an exemption under this Act;
5   (II) procedures for making
6   metadata for custom-developed code
7   publicly accessible pursuant to sub-
8   section (c);
9   (III) procedures for Federal em-
10   ployees to gain access to public reposi-
11   tories and private repositories that
12   contain custom developed source code;
13   and
14   (IV) standardized reporting prac-
15   tices across the agency to capture key
16   information relating to a contract
17   under which custom-developed source
18   code was produced for reporting sta-
19   tistics about the contract; and
20   (B) corrects or amends any policies of the
21 agency that are inconsistent with the require-
22 ments of this Act.
23   (2) ADMINISTRATOR OF THE OFFICE OF ELEC-
24 TRONIC GOVERNMENT.—

8

1   (A) MINIMUM STANDARD REPORTING RE-
2   QUIREMENTS.—Not later than 120 days after
3   the date of enactment of this Act, the Adminis-
4   trator of the Office of Electronic Government
5   shall establish minimum standard reporting re-
6   quirements for the Chief Information Officers
7   of agencies, which shall include information re-
8   lating to—

9   (i) measuring the frequency of reuse
10   of code, including access and modification
11   under subsection (b);

12   (ii) whether the shared code is main-
13   tained;

14   (iii) whether there is a feedback mech-
15   anism for improvements to or community
16   development of the shared code; and

17   (iv) the number and circumstances of
18   all   exemptions   granted   under   section
19   4(a)(2).

20   (B) ANNUAL REPORT.—Not later than 1
21   year after the date of enactment of this Act,
22   and annually thereafter, the Administrator of
23   the Office of Electronic Government shall sub-
24   mit to Congress a report on the status of the

1 implementation of this Act by each agency, in-

2 cluding—

3 (i) a complete list of all exemptions

4 granted under section 4(a)(2); and

5 (ii) a table showing whether each

6 agency has updated the acquisition and

7 other policies of the agency to be compliant

8 with this Act.

9 (3) GUIDANCE.—The Director of the Office of

10 Management and Budget shall issue guidance, con-

11 sistent with the purpose of this Act, that establishes

12 best practices and uniform procedures across agen-

13 cies for the purposes of implementing this sub-

14 section.

15 **SEC. 4. EXEMPTIONS.**

16 (a) IN GENERAL.—

17 (1) AUTOMATIC.—

18 (A) IN GENERAL.—This Act shall not

19 apply to classified source code or source code

20 developed primarily for use in a national secu-

21 rity system (as defined in section 11103 of title

22 40, United States Code).

23 (B) NATIONAL SECURITY.—An exemption

24 from the requirements under section 3 shall

10

1 apply to classified source code or source code
2 developed—

3 (i) primarily for use in a national se-
4 curity system (as defined in section 11103
5 of title 40, United States Code); or

6 (ii) by an agency, or part of an agen-
7 cy, that is an element of the intelligence
8 community (as defined in section 3(4) of
9 the National Security Act of 1947 (50
10 U.S.C. 3003(4)).

11 (C) FREEDOM OF INFORMATION ACT.—An
12 exemption from the requirements under section
13 3 shall apply to source code the disclosure of
14 which is exempt under section 552(b) of title 5,
15 United States Code (commonly known as the
16 "Freedom of Information Act").

17 (2) DISCRETIONARY.—

18 (A) EXEMPTION AND GUIDANCE.—

19 (i) IN GENERAL.—The Chief Informa-
20 tion Officer of an agency, in consultation
21 with the Federal Privacy Council, or any
22 successor thereto, may exempt from the re-
23 quirements of section 3 any source code for
24 which a limited exemption described in
25 subparagraph (B) applies.

11

1 (ii) GUIDANCE REQUIRED.—The Fed-
2 eral Privacy Council shall provide guidance
3 to the Chief Information Officer of each
4 agency relating to the limited exemption
5 described in subparagraph (B)(ii) to en-
6 sure consistent application of this para-
7 graph across agencies.

8 (B) LIMITED EXEMPTIONS.—The limited
9 exemptions described in this paragraph are the
10 following:

11 (i) The head of the agency is prohib-
12 ited from providing the source code to an-
13 other individual or entity under another
14 Federal law or regulation, including
15 under—

16 (I) the Export Administration
17 Regulations;

18 (II) the International Traffic in
19 Arms Regulations;

20 (III) the regulations of the
21 Transportation Security Administra-
22 tion relating to the protection of Sen-
23 sitive Security Information; and

24 (IV) the Federal laws and regula-
25 tions governing the sharing of classi-

1 fied information not covered by the

2 exemption in paragraph (1).

3 (ii) The sharing or public accessibility

4 of the source code would create an identifi-

5 able risk to the privacy of an individual.

6 (b) REPORTS REQUIRED.—

7 (1) IN GENERAL.—Not later than December 31

8 of each year, the Chief Information Officer of an

9 agency shall submit to the Administrator of the Of-

10 fice of Electronic Government a report of the source

11 code of the agency to which an exemption under

12 subsection (1) or (2) of subsection (a) applied dur-

13 ing the fiscal year ending on September 30 of that

14 year with a brief narrative justification of each ex-

15 emption.

16 (2) FORM.—The report under paragraph (1)

17 shall be submitted in unclassified form, with a clas-

18 sified annex as appropriate.

19 (3) ANNUAL REPORT.—Not later than 1 year

20 after the date of enactment of this Act, and annually

21 thereafter, the Administrator of the Office of Elec-

22 tronic Government shall submit to the appropriate

23 congressional committees a report on the status of

24 the implementation of this Act by each agency, in-

25 cluding—

13

1   (A) a compilation of all information, in-
2 cluding a narrative justification, relating to
3 each exemption granted under paragraph (1) or
4 (2) of subsection (a);

5   (B) a table showing whether each agency
6 has updated the acquisition and other policies
7 of the agency to be compliant with this Act;

8   (C) an evaluation of the compliance of the
9 agency with the framework described in section
10 3(d)(2)(A); and

11   (D) a classified annex as appropriate.

12 **SEC. 5. GAO REPORT ON INFORMATION TECHNOLOGY**
13   **PRACTICES.**

14 (a) INITIAL REPORT.—Not later than 1 year after
15 the date of enactment of this Act, the Comptroller General
16 of the United States shall submit to Congress a report
17 that includes an assessment of—

18   (1) any duplication in the procurement of soft-
19 ware by agencies, including estimates of the fre-
20 quency and dollar value of such duplication;

21   (2) how source code sharing and open-source
22 software collaboration can improve cybersecurity at
23 agencies;

24   (3) how the adoption of cloud-based software
25 may support the heads of Federal agencies; and

14

1   (4) how the acquisition of commercial software

2 may support the heads of Federal agencies.

3   (b) SUPPLEMENTAL REPORT.—Not later than 2

4 years after the date of enactment of this Act, the Comp-

5 troller General of the United States shall submit to Con-

6 gress a report that includes an assessment of the imple-

7 mentation of this Act.

8 **SEC. 6. RULE OF CONSTRUCTION.**

9   Nothing in this Act may be construed as requiring

10 the disclosure of information or records that are exempt

11 from public disclosure under section 552 of title 5, United

12 States Code (commonly known as the "Freedom of Infor-

13 mation Act").

14 **SEC. 7. APPLICATION.**

15   This Act shall apply to custom-developed code that

16 is developed or revised—

17   (1) by a Federal employee not less than 180

18 days after the date of enactment of this Act; or

19   (2) under a contract awarded pursuant to a so-

20 licitation issued not less than 180 days after the

21 date of enactment of this Act.

22 **SEC. 8. NO ADDITIONAL FUNDING.**

23   No additional funds are authorized to be appro-

24 priated to carry out this Act.