

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5527  
OFFERED BY MR. COMER OF KENTUCKY**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

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

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

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

9 (1) in subsection (b)—

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

12 “(3) USE OF FUNDS.—

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

17 “(i) To transfer such amounts, to re-  
18 main available until expended, to the head

1 of an agency for the acquisition, procure-  
2 ment, and operation of information tech-  
3 nology, or the development of information  
4 technology when more efficient and cost ef-  
5 fective, to—

6 “(I) modernize, retire, or replace  
7 legacy information technology systems  
8 used by the agency;

9 “(II) enhance cybersecurity and  
10 privacy at the agency;

11 “(III) improve long-term effi-  
12 ciency and effectiveness of agency in-  
13 formation technology; or

14 “(IV) improve the ability of the  
15 agency to perform the mission of the  
16 agency and deliver services to the  
17 public.

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

20 “(I) the activities described in  
21 clause (i); and

22 “(II) the Board and the Director  
23 in carrying out the responsibilities de-  
24 scribed in subsection (c)(2).

1           “(iii) To fund only programs, projects,  
2           or activities, or to fund increases for any  
3           programs, projects, or activities that have  
4           not been denied or restricted by Congress.

5           “(iv) To transfer such amounts only  
6           for programs, projects, or activities that  
7           will be reimbursed to the Fund to the ex-  
8           tent necessary to ensure total amounts in  
9           the Fund are no less than the amounts  
10          needed to keep the Fund operational until  
11          the Fund sunsets pursuant to subsection  
12          (g)(1).

13          “(B) TERMINATION OR SUSPENSION OF  
14          FUNDS.—The Administrator shall, in accord-  
15          ance with recommendations from the Board,  
16          suspend or terminate funding for any project  
17          with respect to which the head of an agency  
18          provided fraudulent or misleading statements  
19          about such project (including fraudulent state-  
20          ments about technical design, the business case,  
21          or program management with respect to the  
22          project) in the application or proposal for  
23          amounts from the Fund for such project.”;

24                 (B) in paragraph (4)(A), by striking  
25                 “\$250,000,000” and inserting “\$50,000,000”

1 and by striking “fiscal years 2018 and 2019”  
2 and inserting “fiscal years 2024 through  
3 2030”;

4 (C) in paragraph (5)—

5 (i) in subparagraph (A)—

6 (I) in clause (i)—

7 (aa) by striking “or (B)”;

8 and

9 (bb) by striking “(3)(C)”

10 and inserting “(3)(A)(ii)”; and

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

12 consistent with any applicable re-

13 programming law or guidelines of the

14 Committees on Appropriations of the

15 Senate and the House of Representa-

16 tives.”; and

17 (ii) in subparagraph (B)(i)—

18 (I) by striking “paragraph

19 (3)(C)” and inserting “paragraph

20 (3)(A)(ii)”; and

21 (II) by striking “the solvency of

22 the Fund, including operating ex-

23 penses” and inserting the following:

24 “total amounts in the Fund are no

25 less than the amounts needed to keep

1 the Fund operational until the Fund  
2 sunsets pursuant to subsection  
3 (g)(1)”;

4 (D) in paragraph (6)—

5 (i) in subparagraph (A)—

6 (I) in the matter before clause  
7 (i), by striking “subparagraphs (A)  
8 and (B) of paragraph (3)” and insert-  
9 ing the following: “paragraph  
10 (3)(A)(i) and before any services or  
11 work are provided under paragraph  
12 (3)(A)(ii)(I)”;

13 (II) in clause (i)—

14 (aa) by striking “unless ap-  
15 proved by the Director”; and

16 (bb) by striking “; and” and  
17 inserting a semicolon;

18 (III) by redesignating clause (ii)  
19 as clause (iv); and

20 (IV) by inserting after clause (i)  
21 the following new clauses:

22 “(ii) which shall include terms of re-  
23 payment that require the head of the agen-  
24 cy to reimburse the Fund for funds trans-  
25 ferred under paragraph (3)(A)(i) at a level

1 that ensures total amounts in the Fund  
2 are no less than the amounts needed to  
3 keep the Fund operational until the Fund  
4 sunsets pursuant to subsection (g)(1);

5 “(iii) which shall include terms of re-  
6 payment that require the head of the agen-  
7 cy to fully reimburse the Fund for any  
8 services or work provided under paragraph  
9 (3)(A)(ii) in direct support of the project;”;  
10 and”;

11 (ii) in subparagraph (B)—

12 (I) by striking clause (i) and in-  
13 serting the following:

14 “(i) for any funds transferred to an  
15 agency under paragraph (3)(A)(i), in the  
16 absence of compelling circumstances docu-  
17 mented by the Administrator at the time of  
18 transfer, that such funds shall be trans-  
19 ferred only—

20 “(I) on an incremental basis, tied  
21 to metric-based development mile-  
22 stones achieved by the agency through  
23 the use of rapid, iterative, develop-  
24 ment processes; and

1 “(II) after the head of the agency  
2 has provided the Director any infor-  
3 mation the Director is required to re-  
4 port pursuant to paragraph (7)(A)(i);  
5 and”;

6 (II) in clause (ii)—

7 (aa) by striking “subpara-  
8 graphs (A) and (B) of paragraph  
9 (3)” and inserting “paragraph  
10 (3)(A)(i)”;

11 (bb) by striking “paragraph  
12 (6)” and inserting “this para-  
13 graph”;

14 (E) in paragraph (7)—

15 (i) in subparagraph (A)(i)—

16 (I) by inserting “the written  
17 agreement entered into under para-  
18 graph (6),” after “description of the  
19 project,”; and

20 (II) by inserting “(including doc-  
21 umented market research into com-  
22 mercial products and services)” after  
23 “used”;

24 (ii) in subparagraph (B)—

25 (I) in clause (i)—

1 (aa) by striking “estab-  
2 lishing”; and

3 (bb) by striking “the cost  
4 savings associated with the  
5 projects funded both annually  
6 and over the life of the acquired  
7 products and services by the  
8 Fund;” and inserting the fol-  
9 lowing: “the amount repaid to  
10 the Fund in accordance with the  
11 terms established in the written  
12 agreements described in para-  
13 graph (6);”;

14 (II) in clause (ii)—

15 (aa) by striking “reliability  
16 of the cost savings” and inserting  
17 “total cost savings”; and

18 (bb) by striking the semi-  
19 colon and inserting “; and”; and

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

22 (IV) by striking clause (iv);

23 (2) in subsection (c)(2)—

24 (A) in subparagraph (A)—



1 (i) in clause (ii), by striking “the  
2 greatest Governmentwide impact; and” and  
3 inserting the following: “the greatest im-  
4 pact on modernizing, retiring, or replacing  
5 Federal legacy information technology sys-  
6 tems; and”;

7 (ii) by redesignating clauses (i)  
8 through (iii) as clauses (ii) through (iv),  
9 respectively; and

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

12 “(i) the ability for the head of the  
13 agency to ensure repayment of funds  
14 transferred from the Fund to the head of  
15 the agency, in accordance with subsection  
16 (b);”;

17 (B) in subparagraph (D), by striking “to  
18 improve or replace multiple information tech-  
19 nology systems” and inserting the following: “to  
20 modernize, retire, or replace legacy information  
21 technology systems under subsection  
22 (b)(3)(A)(i)”;

23 (C) in subparagraph (F), by inserting after  
24 “subsection (b)(6)” the following: “or the iden-  
25 tification of fraudulent or misleading state-

1           ments about the project (including fraudulent  
2           statements about technical design, the business  
3           case, or program management with respect to  
4           the project) in the application or proposal for  
5           amounts from the Fund for the project”; and

6                   (D) in subparagraph (G), by inserting  
7           after “operating costs of the Fund” the fol-  
8           lowing: “to ensure total amounts in the Fund  
9           are no less than the amounts needed to keep  
10          the Fund operational until the Fund sunsets  
11          pursuant to subsection (g)(1)”;

12          (3) in subsection (c)—

13                   (A) in paragraph (5)—

14                           (i) in subparagraph (B) by striking  
15                           the period at the end and inserting “;  
16                           and”;

17                           (ii) by inserting after subparagraph  
18                           (B) the following;

19                           “(C) a senior official from the Cybersecu-  
20                           rity and Infrastructure Security Agency of the  
21                           Department of Homeland Security, appointed  
22                           by the Director of the Cybersecurity and Infra-  
23                           structure Security Agency, with the approval of  
24                           the Director of the Office of Management and  
25                           Budget.”;

1 (B) in paragraph (6)(A)—

2 (i) by striking “shall be—” and in-  
3 sserting “shall be 4 employees of the Fed-  
4 eral Government primarily having technical  
5 expertise in information technology devel-  
6 opment, financial management, cybersecu-  
7 rity and privacy, and acquisition, ap-  
8 pointed by the Director.”; and

9 (ii) by striking clauses (i) and (ii);  
10 and

11 (4) in subsection (d)(2)—

12 (A) in subparagraph (A), by striking “sub-  
13 section (b)(3)(A) and for products, services, and  
14 acquisition vehicles funded under subsection  
15 (b)(3)(B)” and inserting “subsection (b)(3)”;  
16 and

17 (B) in subparagraph (C), by inserting after  
18 “and reduce waste” the following: “and ensure  
19 total amounts in the Fund are no less than the  
20 amounts needed to keep the Fund operational  
21 until the Fund sunsets pursuant to subsection  
22 (g)(1)”;

23 (5) by redesignating subsections (e) and (f) as  
24 subsections (f) and (g), respectively;

1           (6) by inserting after subsection (d) the fol-  
2           lowing new subsection:

3           “(e) RESPONSIBILITIES OF THE FEDERAL CHIEF IN-  
4           FORMATION OFFICER; AGENCY CHIEF INFORMATION OF-  
5           FICERS.—

6           “(1) AGENCY INVENTORY.—An agency Chief  
7           Information Officer, in coordination with stake-  
8           holders and other agency officials, shall provide to  
9           the Federal Chief Information Officer—

10                   “(A) on or before the first September 30  
11                   that occurs after the date of the enactment of  
12                   the Modernizing Government Technology Re-  
13                   form Act of 2023, a list of high-risk legacy in-  
14                   formation technology systems used, operated, or  
15                   maintained by the agency, in accordance with  
16                   the guidance issued under paragraph (4); and

17                   “(B) on or before September 30 of each  
18                   year after the first year in which the list is pro-  
19                   vided under subparagraph (A), any updates to  
20                   such list.

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

23                   “(A) on or before the first December 30  
24                   that occurs after the date of the enactment of  
25                   the Modernizing Government Technology Re-

1 form Act of 2023, compile a Legacy Federal IT  
2 Inventory on the basis of the each list provided  
3 by an agency Chief Information Officers under  
4 paragraph (1)(A) that includes information  
5 about each high-risk legacy information tech-  
6 nology system used, operated, or maintained by  
7 an agency; and

8 “(B) on or before December 30 each year  
9 after the year in which the Legacy Federal IT  
10 Inventory is compiled, update such Inventory on  
11 the basis of each update to the list provided by  
12 an agency Chief Information Officer under  
13 paragraph (1)(B).

14 “(3) PRIORITIZATION LIST.—

15 “(A) REQUIREMENT.—The Federal Chief  
16 Information Officer shall—

17 “(i) not later than 90 days after the  
18 date on which the Federal Chief Informa-  
19 tion Officer receives the list required by  
20 paragraph (1)(A) from each agency Chief  
21 Information Officer, compile, on the basis  
22 of each such list, a list of 10 legacy infor-  
23 mation technology systems that present the  
24 greatest security, privacy, and operational  
25 risks to the Federal Government; and

1           “(ii) not later than 90 days after the  
2           date on which the Federal Chief Informa-  
3           tion Officer receives updates under para-  
4           graph (1)(B) from each agency Chief In-  
5           formation Officer, update the list required  
6           by subparagraph (A) on the basis of each  
7           updates to the list provided by agency  
8           Chief information Officers under para-  
9           graph (1)(B).

10           “(B) REPORT TO CONGRESS.—Not later  
11           than 14 days after the date on which the Fed-  
12           eral Chief Information Officer compiles the list  
13           required by subparagraph (A), or updates such  
14           list, the Director shall submit to the Committee  
15           on Oversight and Accountability of the House  
16           of Representatives, the Committee on Home-  
17           land Security and Governmental Affairs of the  
18           Senate, and the Comptroller General of the  
19           United States, a report (which may include a  
20           classified annex) containing—

21           “(i) such list (including any update  
22           made to such list under subparagraph  
23           (A)(ii)); and

24           “(ii) each list provided by an agency  
25           Chief Information Officer under paragraph

1 (1)(A) (including any update made to any  
2 such list under paragraph (1)(B)).

3 “(4) GUIDANCE.—

4 “(A) IN GENERAL.—Not later than 180  
5 days after enactment of this Act, the Director  
6 shall issue guidance on implementing the re-  
7 quirements of this subsection that shall, at a  
8 minimum—

9 “(i) prescribe an appropriate format  
10 for list to be provided under paragraph  
11 (1)(A);

12 “(ii) prescribe the information to be  
13 included in the Legacy Federal IT Inven-  
14 tory required by paragraph (2);

15 “(iii) provide guidance on how an  
16 agency Chief Information Officer should  
17 identify high-risk legacy information tech-  
18 nology systems that, at least, requires  
19 agency Chief Information Officers, in co-  
20 ordination with other agency stakeholders,  
21 to identify as a high risk legacy informa-  
22 tion technology system any outdated or ob-  
23 solete system of information technology  
24 that is critical to the agency such that the  
25 loss or degradation of the system would

1 create a security, operational, or privacy  
2 risk to the agency or would otherwise im-  
3 pact the ability of the agency to perform  
4 the mission of the agency, effectively de-  
5 liver programs, or conduct business; and

6 “(iv) provide guidance on how existing  
7 reporting structures can be used to submit  
8 the Legacy Federal IT inventory required  
9 by paragraph (2).

10 “(B) UPDATES.—The Director may update  
11 the guidance issued under subparagraph (A) as  
12 the Director determines necessary.

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

14 “(A) AGENCY CHIEF INFORMATION OFFI-  
15 CER.—The term ‘agency Chief Information Of-  
16 ficer’ means a Chief Information Officer des-  
17 igned under section 3506(a)(2) of title 44,  
18 United States Code.

19 “(B) FEDERAL CHIEF INFORMATION OFFI-  
20 CER.—The term ‘Federal Chief Information Of-  
21 ficer’ means the Administrator of the Office of  
22 Electronic Government.”; and

23 (7) in subsection (g)(1), as so redesignated, by  
24 striking “On and after the date that is 2 years after  
25 the date on which the Comptroller General of the



1 United States issues the third report required under  
2 subsection (b)(7)(B),” and inserting “After Decem-  
3 ber 31, 2030,”.

