118TH CONGRESS
2D SESSION

S. 5109

To amend section 3520A of title 44, United States Code, to extend the Chief Data Officer Council's sunset and add new authorities for improving Federal agency data governance, including to enable reliable and secure adoption of emerging technologies and artificial intelligence, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2024

Mr. PETERS (for himself and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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A BILL

To amend section 3520A of title 44, United States Code, to extend the Chief Data Officer Council's sunset and add new authorities for improving Federal agency data governance, including to enable reliable and secure adoption of emerging technologies and artificial intelligence, 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 "Modernizing Data

5 Practices to Improve Government Act".

1 **SEC. 2. AMENDMENTS.**

2 (a) IN GENERAL.—Section 3520A of title 44, United

3 States Code, is amended—

4 (1) by striking subsections (d) and (e);

5 (2) by redesignating subsections (a) through (c)

6 as subsections (b) through (d), respectively;

7 (3) by inserting before subsection (b), as so re-

8 designated, the following:

9 "(a) DEFINITIONS.—In this section:

10 "(1) ARTIFICIAL INTELLIGENCE.—The term

11 'artificial intelligence'—

12 "(A) has the meaning given that term in

13 section 5002 of the National Artificial Intel-

14 ligence Initiative Act of 2020 (15 U.S.C. 9401);

15 and

16 "(B) includes the artificial systems and

17 techniques described in paragraphs (1) through

18 (5) of section 238(g) of the John S. McCain

19 National Defense Authorization Act for Fiscal

20 Year 2019 (Public Law 115–232; 10 U.S.C.

21 4061 note prec.).

22 "(2) DATA GOVERNANCE.—The term 'data gov-

23 ernance'—

24 "(A) means the approach of an agency to

25 managing data during the lifecycle of the data,

26 from acquisition, to use, to disposal; and

3

1   "(B) includes—

2   "(i) all actions an agency must take

3   and the technology and processes an agen-

4   cy must use to ensure data is secure, pri-

5   vate, accurate, available, and usable; and

6   "(ii) authorities, roles, responsibilities,

7   organizational structures, policies, proce-

8   dures, standards, and resources for the

9   definition, stewardship, production, secu-

10   rity provenance, and use of data.

11   "(3) USE CASE.—The term 'use case' means a

12 description of the ways and circumstances in which

13 a technology is deployed to perform a specific func-

14 tion.";

15   (4) in subsection (c), as so redesignated—

16   (A) by redesignating paragraph (5) as

17   paragraph (6);

18   (B) in paragraph (4), by striking the

19   "and" at the end; and

20   (C) by inserting after paragraph (4) the

21   following:

22   "(5) identify opportunities and procedures to

23 improve data governance to—

1   "(A) ensure the data of agencies are trans-
2   parent, accessible, and of sufficient quality for
3   the intended use of the data; and

4   "(B) support agency heads and their ef-
5   forts to reliably and securely leverage emerging
6   technologies and artificial intelligence, to ensure
7   mission outcomes and improve operational effi-
8   ciency across agencies; and";

9   (5) in subsection (d)(3), as so redesignated—

10   (A) by striking "The Administrator" and
11   inserting the following:

12   "(A) ADMINISTRATOR OF THE OFFICE OF
13   ELECTRONIC   GOVERNMENT.—The   Adminis-
14   trator"; and

15   (B) by inserting after subparagraph (A),
16   as so designated, the following:

17   "(B) APPOINTED MEMBERS.—The Direc-
18   tor shall appoint a representative from among
19   Chief Artificial Intelligence Officers to serve on
20   the Council."; and

21   (6) by adding at the end the following:

22   "(e) DATA GOVERNANCE REPORTS.—The Council
23 shall submit to the Director, the Committee on Homeland
24 Security and Governmental Affairs of the Senate, and the

Committee on Oversight and Accountability of the House
of Representatives—

      "(1) a biennial report on the work of the Council, including any updates to the recommendations provided in the report required under paragraph (2) of this subsection;

      "(2) not later than 1 year after the date of enactment of this subsection, a report with recommendations and best practices for agencies on developing datasets, data governance policies, and infrastructure to enable adoption and use of emerging technologies and artificial intelligence, including for use in training, testing, and operation of artificial intelligence within agencies that includes—

            "(A) an assessment of key data governance and sharing challenges preventing adoption of emerging technologies and artificial intelligence across agencies;

            "(B) an assessment of ways to strengthen and clarify roles and responsibilities related to data governance between senior agency leaders, including the Chief Information Officer, the Chief Information Security Officer, the Chief Financial Officer, the Chief Privacy Officer, the

1 Chief Artificial Intelligence Officer, and the

2 Chief Acquisition Officer;

3 ''(C) recommendations for data governance

4 best practices, including—

5 ''(i) best practices to ensure data used

6 for testing, training, and operation of arti-

7 ficial intelligence is reliable, relevant to the

8 task, representative of the impacted indi-

9 viduals of the artificial intelligence system,

10 transparent, high quality, and protects the

11 privacy and personally identifiable informa-

12 tion of individuals; and

13 ''(ii) defining key data standards, in-

14 cluding data quality;

15 ''(D) a prioritization of agency artificial in-

16 telligence use cases that address a critical need

17 across the Federal Government, for which new

18 or shared datasets are needed to support adop-

19 tion;

20 ''(E) identification of existing data avail-

21 able to 1 or more agencies that would benefit

22 other such agencies if the data were shared or

23 made available;

1   "(F) recommendations for ways to address

2   increases in risks, including through training of

3   relevant agency employees, associated with—

4   "(i) the potential for misuse of, mis-

5   management of, and unauthorized access

6   to data and personally identifiable informa-

7   tion of individuals when an agency

8   leverages data for use in artificial intel-

9   ligence, including identification of software

10   or hardware solutions, technical processes,

11   techniques, or other technological means of

12   mitigating privacy risks arising from data

13   processing; or

14   "(ii) increasing access to the data of

15   the agency for the purposes of supporting

16   a cross-Government mission;

17   "(G) recommendations for data ownership

18   and retention policies and procedures, including

19   policies and procedures to ensure that agency

20   contracts to procure artificial intelligence in-

21   clude any necessary clauses to ensure that the

22   Federal Government—

23   "(i) retains sufficient rights to data,

24   and any modifications to that data;

1   "(ii) avoids vendor lock-in and retains

2   the ability to facilitate or conduct the con-

3   tinued design, development, testing, and

4   operation of artificial intelligence by the

5   Federal Government; and

6   "(iii) can conduct pre-procurement re-

7   views of artificial intelligence to assess po-

8   tential error issues;

9   "(H) criteria agencies should consider

10   when using data to train artificial intelligence

11   used by agencies, including recommendations

12   for—

13   "(i) ways to increase transparency of

14   training data for the public and for agency

15   employees using the relevant artificial in-

16   telligence system software;

17   "(ii) processes and procedures to ana-

18   lyze and test training data for potential

19   risks;

20   "(iii) criteria for determining how to

21   preserve the interests of the Federal Gov-

22   ernment; and

23   "(iv) performance evaluation metrics

24   to ensure that an artificial intelligence sys-

25   tem performs as intended;

1   "(I) recommendations for ways to expand

2   public access to Federal data assets in a ma-

3   chine-readable format while also taking into ac-

4   count security considerations, including the risk

5   that, while information in an individual data

6   asset may not pose a security risk in isolation,

7   such information could pose a security risk

8   when combined with other data assets;

9   "(J) recommendations for defining, gener-

10   ating, using, and ensuring the privacy and secu-

11   rity of synthetic data in the Federal Govern-

12   ment, including—

13   "(i) a formalized definition of syn-

14   thetic data generation for government use,

15   including specifying definitions for data

16   which is fully or partially synthetic;

17   "(ii) guidance for agencies on best

18   practices around synthetic data generation

19   and use, including tools or techniques

20   agencies should take to—

21   "(I) mitigate privacy and security

22   risks;

23   "(II) ensure agencies practice ap-

24   propriate processes to ensure the ac-

25   curacy and quality of synthetic data

1   and the appropriateness for the in-

2   tended use of the synthetic data by

3   the agency;

4   "(III) adopt the appropriate

5   techniques to validate synthetic data,

6   including data profiling, data consist-

7   ency, data integrity, and data docu-

8   mentation; and

9   "(IV) communicate opportunities,

10   risks, and limitations of synthetic data

11   internally to agencies and externally

12   to the public;

13   "(iii) opportunities across the Federal

14   Government and within specific agencies

15   for embracing or avoiding the use of syn-

16   thetic data; and

17   "(iv) opportunities for the Federal

18   Government to partner with public and

19   private sector entities in the development

20   and sharing of data, including synthetic

21   data, to help in the adoption of emerging

22   technologies and artificial intelligence; and

23   "(K) for subparagraphs (A) through (J),

24   an indication of how agencies can incorporate

25   the respective recommendations and best prac-

1   tices into existing agency processes and statu-

2   tory requirements.

3   "(f) DATA GOVERNANCE GUIDANCE.—The Director,

4 upon receipt of a report required under subsection (e),

5 may issue guidance to agencies with respect to the imple-

6 mentation of the recommendations of the report.

7   "(g) DATA MANAGEMENT REPORT.—Not later than

8 270 days after the date of enactment of this subsection,

9 the Director, in consultation with the Council, shall submit

10 to Congress an annual report with recommendations to

11 clarify and enhance the roles of the Chief Data Officers

12 across the Federal Government relating to data govern-

13 ance for artificial intelligence, including—

14   "(1) an inventory of all Chief Data Officers of

15   agencies, including, with respect to each agency—

16   "(A) any additional roles or titles the Chief

17   Data Officer holds at the agency;

18   "(B) the organizational structure of the

19   agency, including any official to whom the Chief

20   Data Officer reports to within the agency; and

21   "(C) the respective roles, responsibilities,

22   and statutory authorities relating to data and

23   artificial intelligence of the Chief Data Officer

24   at the agency;

1 ''(2) an identification of skills and resources

2 needed by Chief Data Officers and their staffs to

3 support artificial intelligence system adoption at

4 agencies; and

5 ''(3) recommendations for suggested collabora-

6 tion opportunities between the Council and other

7 interagency councils to improve data governance best

8 practices across government, including—

9 ''(A) the Chief Financial Officers Council;

10 ''(B) the Chief Human Capital Officers

11 Council;

12 ''(C) the Chief Acquisition Officers Coun-

13 cil;

14 ''(D) the Federal Privacy Council;

15 ''(E) the Chief Information Officers Coun-

16 cil; and

17 ''(F) other key groups of the Federal Gov-

18 ernment.

19 ''(h) EVALUATION.—Not later than 2 years after the

20 date of enactment of this subsection, and not less fre-

21 quently than once every 2 years thereafter, the Comp-

22 troller General shall submit to Congress a report on—

23 ''(1) whether the duties of the Council improved

24 the use of evidence and program evaluation in the

25 Federal Government; and

1   "(2) any barriers or challenges preventing the

2   Council from accomplishing the objectives under this

3   section or the amendments made by the Modernizing

4   Data Practices to Improve Government Act.".

5   (b) SUNSET.—Beginning on the date that is 7 years

6 after the date of enactment of this Act, the amendments

7 made by this Act shall have no force or effect.

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