

**Calendar No. 653**

117TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 117-262

LEGACY IT REDUCTION ACT OF 2022

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 3897

TO REQUIRE THE REDUCTION OF THE RELIANCE AND  
EXPENDITURES OF THE FEDERAL GOVERNMENT ON LEGACY  
INFORMATION TECHNOLOGY SYSTEMS, AND FOR OTHER  
PURPOSES



DECEMBER 15, 2022.—Ordered to be printed

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U.S. GOVERNMENT PUBLISHING OFFICE

39-010

WASHINGTON : 2023

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DECEMBER 15, 2022.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

**R E P O R T**

[To accompany S. 3897]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3897), to require the reduction of the reliance and expenditures of the Federal government on legacy information technology systems, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 3897, the Legacy IT Reduction Act, is to reduce the federal government’s reliance on legacy information technology (IT) systems in order to reduce costs, increase cybersecurity, and improve user experience. The bill requires agencies to develop an inventory of their legacy IT systems and write modernization plans to update or dispose of those systems. It also requires the Office of Management and Budget (OMB) to issue guidance to assist agencies with identifying legacy IT systems and modernizing them. Additionally, the bill codifies the Computers for Learning Program, which allows agencies to transfer gently used computers and software to educators and schools. A Government Accountability Office (GAO) report examining the implementation of the bill alongside

existing IT modernization policies and programs is required, in order to improve coordination and outcomes.

## II. BACKGROUND AND THE NEED FOR LEGISLATION

GAO issued a report in June 2019 entitled *Information Technology: Agencies Need to Develop Modernization Plans for Critical Legacy Systems*. In this report, GAO analyzed 65 legacy systems and identified ten critical systems most in need of modernization. GAO found that, of the ten departments and agencies responsible for these legacy systems, three departments—Education, Health and Human Services, and Transportation—did not have documented modernization plans. Of the seven agencies with documented plans for modernizing their legacy systems, only the Departments of the Interior and Defense had plans that included key elements identified by GAO as best practices: milestones, a description of the work necessary to complete the modernization, and a plan for the disposition of the legacy system. The report concluded that, without complete modernization plans, all ten departments and agencies will be at increased risk of cost overruns, schedule delays, and project failures.<sup>1</sup>

In June 2020, Senator Maggie Hassan sent an oversight letter to these departments and agencies to ask how officials planned to modernize the systems GAO identified. In April 2021, as Chair of the Homeland Security and Governmental Affairs Committee Subcommittee on Emerging Threats and Spending Oversight, Senator Hassan held a hearing with the GAO report author and three former federal chief information officers on the challenges presented by outdated technology and the barriers to modernization.<sup>2</sup> In September 2021, Senator Hassan held a second hearing on the issue with witnesses from the Biden Administration.<sup>3</sup> The Legacy IT Reduction Act of 2022 reflects the feedback and information gathered from the oversight letter and hearings.

## III. LEGISLATIVE HISTORY

Senator Hassan (D–NH) introduced S. 3897, the Legacy IT Reduction Act, on March 22, 2022, with Senator Cornyn (R–TX). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 3897 at a business meeting on March 30, 2022. During the business meeting, Senator Hassan offered Hassan Amendment 1. The amendment clarified the scope of the IT modernization plans under section 4 of the bill and the factors OMB may choose to include in its guidance to agencies regarding how to write an IT modernization plan. Hassan Amendment 2 was not offered. The bill was approved by voice vote *en bloc* as amended by Hassan Amendment 1 with Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Paul, Lankford, Romney, Scott, and Hawley present.

<sup>1</sup> Government Accountability Office, *Information Technology: Agencies Need to Develop Modernization Plans for Critical Legacy Systems* (GAO–19–471) (June 11, 2019).

<sup>2</sup> Senate Subcommittee on Emerging Threats and Spending Oversight, *Cutting Wasteful Government Spending and Saving Taxpayer Dollars*, 117th Cong. (Apr. 27, 2021).

<sup>3</sup> Senate Subcommittee on Emerging Threats and Spending Oversight, *Reducing Wasteful Government Spending and Saving Taxpayer Dollars by Updating IT Systems*, 117th Cong. (Sept. 28, 2021).

#### IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

##### *Section 1. Short title*

This section provides the short title of the bill: “Legacy IT Reduction Act of 2022.”

##### *Section 2. Definitions*

For most key terms, this section draws definitions from other areas of the U.S. Code and Code of Federal Regulations.

“Administrator” refers to the head of the General Services Administration (GSA).

“Agency” refers to the 24 CFO Act agencies listed in 31 U.S.C. 901(b)(1)–(2).

“Chief Information Officer” (CIO) is the person designated under 44 U.S.C. 3506(a)(2) to carry out an agency’s information resources management to improve productivity, efficiency, and effectiveness.

“Comptroller General” refers to the head of the Government Accountability Office (GAO).

“Congressional Oversight Committee” refers to the Senate and House committees or subcommittees that provide oversight of a particular agency.

“Director” refers to the head of the Office of Management and Budget (OMB).

“Information technology” (IT) has the meaning given in 40 U.S.C. 11101. It means, with respect to an executive agency, any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the agency directly or is used by a contractor that requires the use of that equipment (but not acquired incidental to a contract). This includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources.

“IT working capital fund” refers to the funds established by the Modernizing Government Technology Act (NDAA FY2018, Sec. 1077; codified at 40 U.S.C. 11301 note).

“Legacy information technology system” also takes its definition from the Modernizing Government Technology Act (NDAA FY2018, Sec. 1076; codified at 40 U.S.C. 11301 note), and means “an outdated or obsolete system of information technology.”

“National Security System” has the meaning given the term in 40 U.S.C. 11301.

“Technology Modernization Fund” refers to the Fund established under the Modernizing Government Technology Act (NDAA FY18, Sec. 1078(b)(1); codified at 40 U.S.C. 11301 note).

##### *Section 3. Legacy information technology system inventory*

This section requires agency CIOs to develop an initial inventory of each legacy IT system in use at the agency within one year of enactment, and then update the inventory every five years thereafter. The purpose of the inventory is two-fold: (1) to identify the

legacy IT that the agency uses; and (2) inform the modernization plans required under Section 4.

OMB is directed to issue guidance on what should be included in the inventory. OMB should consider including the name or identification of the legacy IT system and the office or mission of the agency that the legacy IT system supports and how it is used. To the extent that information is available, OMB should also consider including the date of the last update or refresh of the legacy IT system; the annual price (including recurring costs and costs of contracts for labor and maintenance); the name and contact information of the vendor; and the date of the next expected update, retirement, or disposal of the IT system.

In addition, agencies must make the inventory available to a House of Congress, congressional oversight committee, GAO, or the agency's Office of Inspector General upon request. OMB may also require an agency to include the inventory in other reporting structures.

#### *Section 4. Agency legacy information technology systems modernization plans and report*

Following development of the legacy IT system inventory, this section requires agencies to develop a plan to modernize their legacy IT systems. The initial plan must be published within two years of enactment, and then updated every five years thereafter and included as part of the agency's information resource management strategic plan under 44 U.S.C. 3506(b)(2).

The modernization plans shall include the following information: (1) an inventory of the agency's legacy IT system and an identification of legacy IT systems that the agency has prioritized for updates, modernization, retirement, or disposal; (2) steps the agency intends to make to update, modernize, cease use of, or dispose of each legacy IT system within five years of the submission of the plan; and (3) any additional information OMB determines necessary or useful for an agency to consider or include to effectively and efficiently execute the plan, including capacity of the agency to operate and maintain the modern system; cost and sources of funding required for the modernization; and the ability of the agency to adapt the modernized system to changes in technology and policy.

Agencies will submit copies of the plans to the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Oversight and Reform, and the committee of jurisdiction of the agency.

#### *Section 5. Role of the Office of Management and Budget*

This section requires OMB to issue guidance on the implementation of this Act and the amendments it makes. For the guidance, OMB is tasked with: determining what constitutes "outdated and obsolete" IT systems for the purposes of compiling the inventory under Section 3; developing instructions and templates for completing the legacy IT system inventory and modernization plans (or updates to plans if plans already exist); and determining if any additional guidance is required to implement this Act.

*Section 6. Computers for Learning Program*

This section codifies the Computers for Learning Program. In Executive Order 12999, President Clinton established the Computers for Learning Program, which allows federal agencies to transfer gently used computers and other IT equipment to eligible schools and non-profit organizations. This section makes several updates to the Executive Order, such as authorizing GSA to promulgate regulations to prevent fraud and abuse of the program.

*Section 7. Comptroller general review*

This section requires GAO to issue a report within three years of enactment on the implementation of the Act, and how this Act functions alongside other existing IT modernization offices, programs, and policies.

*Section 8. Protection of sensitive information; exemption of national security systems*

This section states that this legislation does not require disclosure of sensitive information that is otherwise protected from disclosure by law or that would compromise security of federal IT systems. In addition, this section exempts national security systems from the requirements of this legislation.

## V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

## VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**UNITED STATES CODE**

\* \* \* \* \*

**TITLE 15—COMMERCE AND TRADE**

\* \* \* \* \*

**CHAPTER 63—TECHNOLOGY INNOVATION**

\* \* \* \* \*

## SEC. 3710. UTILIZATION OF FEDERAL TECHNOLOGY

- \* \* \* \* \*
- (j) **COMPUTERS FOR LEARNING PROGRAM.**—
- (1) **DEFINITIONS.**—*In this subsection:*
- (A) **ADMINISTRATOR.**—*The term ‘Administrator’ means the Administrator of General Services.*
- (B) **COMMUNITY BASED EDUCATIONAL ORGANIZATION.**—*The term ‘community-based educational organization’ means a nonprofit entity—*
- (i) *that is engaged in collaborative projects with schools; or*
- (ii) *the primary focus of which is education.*
- (C) **EDUCATIONALLY USEFUL FEDERAL EQUIPMENT.**—*The term ‘educationally useful Federal equipment’ means—*
- (i) *a computer or related peripheral tool that is appropriate for use in prekindergarten, elementary, middle, or secondary school education; and*
- (ii) *includes—*
- (I) *a printer, modem, router, server, switch, wireless access point, and network management device;*
- (II) *telecommunications and research equipment; and*
- (III) *computer software if the transfer of the license of the software is permitted.*
- (D) **ELIGIBLE ENTITY.**—*The term ‘eligible entity’ means—*
- (i) *a school; or*
- (ii) *a community-based educational organization.*
- (E) **FEDERAL EXECUTIVE BOARD.**—*The term ‘Federal Executive Board’ means a Federal Executive Board established by the President under section 960.102 of title 5, Code of Federal Regulations or any successor regulation.*
- (F) **NONPROFIT ENTITY.**—*The term ‘nonprofit entity’ means an organization described under section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.*
- (G) **NONPROFIT REUSE OR RECYCLING PROGRAM.**—*The term ‘nonprofit reuse or recycling program’ means nonprofit entity that has the ability to upgrade computer equipment at no or low cost for an eligible entity that takes title to the equipment under this subsection.*
- (H) **RESEARCH EQUIPMENT.**—*The term ‘research equipment’ means property determined to be essential to conduct scientific or technical research.*
- (I) **SCHOOL.**—*The term ‘school’—*
- (i) *means an individual public or private educational institution for any grade level between prekindergarten and twelfth grade; and*
- (ii) *includes public school districts.*
- (2) **FINDINGS.**—*Congress finds that—*
- (A) *educationally useful Federal equipment is a vital resource of the United States; and*
- (B) *educationally useful Federal equipment is a valuable tool for computer education if—*
- (i) *the equipment can be used as is; or*



(ii) professional technicians, students, or recycling efforts can separate the equipment into parts for other computers or upgrade the equipment.

(3) *REQUIREMENT.*—To the greatest extent practicable, each Federal agency shall protect and safeguard educationally useful Federal equipment of the Federal agency, particularly when that equipment is declared excess or surplus, so that the equipment may be recycled and transferred, if appropriate, to eligible entities under this subsection.

(4) *EFFICIENT TRANSFER OF EDUCATIONALLY USEFUL FEDERAL EQUIPMENT TO SCHOOLS AND NONPROFIT ORGANIZATIONS.*—

(A) *TRANSFER.*—Each Federal agency shall, where appropriate, identify educationally useful Federal equipment that the Federal agency no longer needs and transfer the educationally useful equipment to eligible entities by—

(i) conveying excess educationally useful Federal equipment directly to an eligible entity pursuant to subsection (i); or

(ii) in accordance with subparagraph (B), reporting excess educationally useful Federal equipment to the Administrator for donation to eligible entities when declared surplus, as described in section 549(b)(2)(A)(ii) of title 40, United States Code.

(B) *ADVANCE REPORTING.*—In reporting excess educationally useful Federal equipment under subparagraph (A)(ii), a Federal agency shall report the equipment as far as possible in advance of the date the equipment becomes excess, so that the Administrator may attempt to arrange direct transfers from the donating Federal agency to eligible entities under this subsection.

(C) *REQUIREMENTS.*—In conveying educationally useful Federal equipment under subparagraph (A)(i)—

(i) title of the equipment shall transfer directly from the Federal agency to an eligible entity;

(ii) the Federal agency shall report the conveyance to the Administrator; and

(iii) at the direction of the recipient of the equipment, and if appropriate, the equipment may be initially conveyed to a nonprofit reuse or recycling program for upgrade.

(D) *TRANSFER BY NONPROFIT REUSE OR RECYCLING PROGRAM.*—A nonprofit reuse or recycling program to which educationally useful Federal equipment is conveyed for the purpose of upgrading for an eligible entity under subparagraph (C)(iii) shall transfer the equipment to the eligible entity upon the completion of the upgrade.

(E) *RESPONSIBILITY FOR COST.*—Any costs relating to a transfer of educationally useful Federal equipment under this subsection shall be the responsibility of the eligible entity that receives the transfer.

(F) *OUTREACH.*—The Administrator, in coordination with the Secretary of Education, shall perform outreach to eligible entities about the availability of transfers under this subsection by all practicable means, including through tele-

*vision or print media, community announcements, and the internet.*

*(G) FEDERAL EXECUTIVE BOARDS.—Each Federal Executive Board shall help facilitate the transfer of educationally useful Federal equipment from Federal agencies under this subsection to eligible entities.*

*(5) GUIDANCE, REGULATIONS, AND ASSISTANCE TO CHIEF INFORMATION OFFICERS.—The Administrator—*

*(A) may issue guidance or regulations to facilitate the implementation of this subsection; and*

*(B) shall provide assistance to the chief information officers of Federal agencies to enhance the participation of Federal agencies in transfers under this subsection.*

*(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a recipient of educationally useful Federal equipment from lending that equipment, whether on a permanent or temporary basis, to a teacher, administrator, student, employee, or other designated individual in furtherance of educational goals.*

*(7) JUDICIAL REVIEW.—Nothing in this subsection shall be construed to create any substantive or procedural right or benefit enforceable by law by a party against the United States, its agencies, its officers, or its employees.”*