

Calendar No. 383

118TH CONGRESS }
2d Session }

SENATE

{ REPORT
118-172 }

LEGACY IT REDUCTION ACT OF 2023

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2032

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



MAY 9, 2024.—Ordered to be printed

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

R E P O R T

[To accompany S. 2032]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2032) 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 an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 2032, the *Legacy IT Reduction Act of 2023*, 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. The inventories are intended to be comprehensive, and should include hardware, software, data centers, and other digital or physical infrastructure that are legacy IT or support legacy IT. It also requires

the Office of Management and Budget (OMB) to issue guidance to assist agencies with identifying legacy IT systems and modernizing them. To further improve agency coordination and outcomes, the bill also requires a Government Accountability Office (GAO) report examining the bill’s implementation and how it functions alongside existing IT modernization policies and programs.¹

II. BACKGROUND AND NEED FOR THE LEGISLATION

In June 2019, GAO issued a report 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—the Department of Education, Department of Health and Human Services, and Department of 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.²

In June 2020, Senator Margaret Wood Hassan (D–NH) sent an oversight letter to these departments and agencies to ask how officials planned to modernize the systems GAO identified.³ In April 2021, the Homeland Security and Governmental Affairs Committee’s Subcommittee on Emerging Threats and Spending Oversight 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.⁴ In September 2021, the Subcommittee held a second hearing on the issue with witnesses from the Biden Administration.⁵

The *Legacy IT Reduction Act of 2023* reflects the feedback and information gathered from the oversight letters and hearings. Specifically, the legislation adopts a single definition of “legacy information technology,” which does not currently exist in statute. In addition, the legislation requires agencies to write IT modernization plans, given that the 2019 GAO report and agency responses to Senator Hassan’s 2020 oversight letters revealed inconsistent or nonexistent technology infrastructure improvement plans across

¹ On March 30, 2022, the Committee approved S. 3897, the *Legacy IT Reduction Act of 2022*, with an amendment. That bill, as reported, is substantially similar to S. 2032, except that S. 3897 included a section to codify the Computers for Learning Program. Accordingly, this committee report is, in many respects, similar to the committee report for S. 3897. See S. Rept. 117–262.

² Government Accountability Office, *Information Technology: Agencies Need to Develop Modernization Plans for Critical Legacy Systems* (GAO–19–471) (June 11, 2019).

³ Letters from Senator Hassan to Agency Chief Financial and Chief Information Officers (June 3, 2020) (www.hassan.senate.gov/imo/media/doc/Sen%20Hassan%20IT%20letters.pdf).

⁴ Senate Subcommittee on Emerging Threats and Spending Oversight, *Hearing on Controlling Federal Legacy IT Costs and Crafting 21st Century IT Management Solutions*, 117th Cong. (Apr. 27, 2021) (S. Hrg. 117–38).

⁵ Senate Subcommittee on Emerging Threats and Spending Oversight, *Hearing on Existing Resources and Innovations Needed to Replace Legacy IT and Save Taxpayer Dollars*, 117th Cong. (Sept. 28, 2021) (S. Hrg. 117–167).

the federal government.⁶ While more agencies have adopted IT modernization plans since the 2019 report, at the April 2021 hearing, GAO observed that these plans still failed to describe the work necessary to implement the plans, milestones to complete modernization, and plans to dispose of legacy systems.⁷ Finally, the legislation calls for leadership from OMB to help address these legacy IT challenges.

III. LEGISLATIVE HISTORY

Senator Hassan introduced S. 2032, the *Legacy IT Reduction Act of 2023*, on June 15, 2023, with original cosponsor Senator John Cornyn (R-TX). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 2032 at a business meeting on July 26, 2023. At the business meeting, Senator Hassan offered a substitute amendment as well as a modification to the substitute amendment. The amendment clarified that the inventories and modernization plans should also consider a legacy IT system’s connection with non-legacy IT systems. The modification added a rule of construction, six-year sunset, and restriction on new appropriations. The Committee adopted the modification to the substitute amendment, and the substitute amendment as modified, by unanimous consent, with Senators Peters, Hassan, Sinema, Rosen, Blumenthal, Paul, Lankford, and Scott present. The bill, as amended by the Hassan amendment as modified, was ordered reported favorably by roll call vote of 8 yeas to 1 nay, with Senators Peters, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Lankford, and Scott voting in the affirmative and Senator Paul voting in the negative. Senators Carper, Padilla, Johnson, Romney, Hawley, and Marshall voted yea by proxy, for the record only.

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

Section 1. Short title

This section establishes the short title of the bill as the “Legacy IT Reduction Act of 2023.”

Section 2. Definitions

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

Paragraph (1) defines “Administrator” as the head of the General Services Administration (GSA).

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

Paragraph (3) defines “Chief Information Officer” (CIO) as 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.

Paragraph (4) defines “Comptroller General” as the head of the Government Accountability Office (GAO).

⁶*Id.*; *Hearing on Controlling Federal Legacy IT Costs*, *supra* note 4.

⁷Senate Subcommittee on Emerging Threats and Spending Oversight, Testimony Submitted for the Record of Kevin Walsh, Director, Information Technology and Cybersecurity, Government Accountability Office, *Hearing on Controlling Federal Legacy IT Costs and Crafting 21st Century IT Management Solutions*, 117th Cong. (Apr. 27, 2021) (S. Hrg. 117–38).

Paragraph (5) defines “Congressional Oversight Committee” as the Senate and House committees or subcommittees that provide oversight of a particular agency.

Paragraph (6) defines “Director” as the head of the Office of Management and Budget (OMB).

Paragraph (7) defines “Information technology” (IT) with the meaning given in 40 U.S.C. 11101(6).

Paragraph (8) defines “IT working capital fund” as the funds established by the Modernizing Government Technology Act (codified at 40 U.S.C. 11301 note).

Paragraph (9) defines “National Security System” with the meaning given the term in 40 U.S.C. 11301.

Paragraph (10) defines “Technology Modernization Fund” as 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

Subsection (a) requires agency CIOs to develop an 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. These inventories will identify legacy IT and will inform the modernization plans required under Section 4. OMB is required to issue guidance on what should be included in the inventory. OMB should consider including the name or identification of the legacy IT system, the office or mission of the agency that the system supports and how it is used, whether the system is connected to a non-legacy IT system, and the date of the system’s next expected update, retirement, or disposal. To the extent that information is available, OMB should also consider including the date the legacy IT system was last updated; the system’s annual price (including recurring costs and costs of contracts for labor and maintenance); the name and contact information of the system’s vendor.

Subsection (b) requires agencies to make the inventory available upon request to a House of Congress, an agency’s congressional oversight committee, GAO, or an 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

Subsection (a) requires agencies to develop a plan to modernize their legacy IT systems following the development of the legacy IT system inventory. The 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).

Subsection (b) requires the modernization plans include the following information: (1) an inventory of the agency’s legacy IT system; (2) an identification of legacy IT systems that the agency has prioritized for updates, modernization, retirement, or disposal; (3) 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 (4) any additional information OMB determines necessary or useful for an agency to consider or include to effectively and efficiently execute the plan, including (A) the capac-

ity of the agency to operate and maintain the modern system; (B) the cost and sources of funding required for the modernization; (C) the agency's ability to adapt the modernized system to changes in technology and policy; and (D) the effect of modernization on non-legacy IT systems.

Subsection (c) requires agencies to submit copies of the plans to the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Oversight and Accountability, and the agency's committee of jurisdiction.

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 within 180 days. The guidance must include criteria to determine what constitutes an "outdated and obsolete" IT system for the purposes of compiling the inventory under Section 3; instructions and templates for completing the legacy IT system inventory and modernization plans (and subsequent updates to the plans); and any additional guidance necessary to implement this Act.

Section 6. 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 7. 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. This section also includes a Rule of Construction stating that nothing in the Act shall be construed to authorize transfers of IT systems to the People's Republic of China or organizations controlled by the People's Republic of China.

Section 8. No new funds; sunset

This section prohibits the appropriation of additional funds to carry out the Act. It also sunsets the bill six years after the date of enactment.

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. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

| S. 2032, Legacy IT Reduction Act of 2023 | | | |
|--|------|---|---------------|
| As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on July 26, 2023 | | | |
| By Fiscal Year, Millions of Dollars | 2024 | 2024-2028 | 2024-2033 |
| Direct Spending (Outlays) | * | * | * |
| Revenues | 0 | 0 | 0 |
| Increase or Decrease (-) in the Deficit | * | * | * |
| Spending Subject to Appropriation (Outlays) | * | * | not estimated |
| Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034? | No | Statutory pay-as-you-go procedures apply? Yes | |
| | | Mandate Effects | |
| Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034? | No | Contains intergovernmental mandate? | No |
| | | Contains private-sector mandate? | No |
| * = between zero and \$500,000. | | | |

S. 2032 would require federal agencies to inventory legacy information technology (IT) systems and develop plans to update or dispose of those that are outdated or obsolete. The bill also would require the Office of Management and Budget to issue guidance for managing that process and direct the Government Accountability Office (GAO) to report on agency efforts.

The federal government spends about \$100 billion annually on IT systems and several laws and directives require agencies to assess, evaluate, and manage their IT resources. Because the bill would not appreciably expand the duties of executive branch agencies, CBO estimates that implementing S. 2032 would not have a significant effect on the federal budget.

Enacting S. 2032 could affect direct spending by some agencies that are allowed to use fees, receipts from the sale of goods, and other collections to cover operating costs. CBO estimates that any net changes in direct spending by those agencies would be negligible because most of them can adjust amounts collected to reflect changes in operating costs.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

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

This legislation would make no change in existing law, within the meaning of clauses (a) and (b) of subparagraph 12 of rule XXVI of the Standing Rules of the Senate, because this legislation would not repeal or amend any provision of current law.