

117TH CONGRESS
1ST SESSION

S. 731

To amend title 38, United States Code, to improve the management of information technology projects and investments of the Department of Veterans Affairs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 11, 2021

Mr. TESTER (for himself, Mr. MORAN, Ms. SINEMA, and Mrs. BLACKBURN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the management of information technology projects and investments of the Department of Veterans Affairs, 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 “Department of Vet-
5 erans Affairs Information Technology Reform Act of
6 2021”.

1 **SEC. 2. MANAGEMENT OF MAJOR INFORMATION TECH-**
 2 **NOLOGY PROJECTS.**

3 (a) IN GENERAL.—Chapter 81 of title 38, United
 4 States Code, is amended by adding at the end the fol-
 5 lowing new subchapter:

6 “SUBCHAPTER VI—INFORMATION
 7 TECHNOLOGY PROJECTS AND ACTIVITIES

8 “§ 8171. Definitions

9 “In this subchapter:

10 “(1) The term ‘appropriate congressional com-
 11 mittees’ means—

12 “(A) the Committee on Veterans’ Affairs
 13 and the Subcommittee on Military Construc-
 14 tion, Veterans Affairs and Related Agencies of
 15 the Committee on Appropriations of the Senate;
 16 and

17 “(B) the Committee on Veterans’ Affairs
 18 and the Subcommittee on Military Construc-
 19 tion, Veterans Affairs and Related Agencies of
 20 the Committee on Appropriations of the House
 21 of Representatives.

22 “(2) The term ‘information technology’ has the
 23 meaning given that term in section 11101 of title
 24 40.

25 “(3) The term ‘information technology project’
 26 means a project or program of the Department (in-

1 including a project or program of any element of the
 2 Department) for, or including, the acquisition or im-
 3 plementation of an information technology system.

4 “(4) The term ‘life cycle costs’ means all direct
 5 and indirect costs to acquire, implement, operate,
 6 and maintain an information technology system.

7 “(5) The term ‘major information technology
 8 project’ means an information technology project
 9 if—

10 “(A) the project is designated—

11 “(i) by the Secretary or the Chief In-
 12 formation Officer of the Department as a
 13 major information technology project; or

14 “(ii) by the Director of the Office of
 15 Management and Budget as a major infor-
 16 mation technology investment, as defined
 17 in section 11302 of title 40;

18 “(B) the dollar value of the project or pro-
 19 gram is estimated by the Secretary to exceed—

20 “(i) \$50,000,000 (as adjusted for in-
 21 flation pursuant to section 1908 of title
 22 41) for all project costs in a single fiscal
 23 year;

24 “(ii) \$200,000,000 (as adjusted for
 25 inflation pursuant to section 1908 of title

1 41) for all project acquisition or implemen-
 2 tation costs for the duration of the project;
 3 or

4 “(iii) \$500,000,000 (as adjusted for
 5 inflation pursuant to section 1908 of title
 6 41) for the total life cycle costs of the
 7 project; or

8 “(C) any increment of the project sepa-
 9 rately meets the requirements of subparagraphs
 10 (A) or (B).

11 **“§ 8172. Management of major information tech-**
 12 **nology projects**

13 “(a) COST, SCHEDULE, AND PERFORMANCE INFOR-
 14 MATION.—(1) The Secretary may not obligate or expend
 15 funds for any major information technology project that
 16 begins after the date of the enactment of the Department
 17 of Veterans Affairs Information Technology Reform Act
 18 of 2021 unless the Secretary, acting through the Chief In-
 19 formation Officer of the Department, submits to the ap-
 20 propriate congressional committees a report containing in-
 21 formation on the cost, schedule, and performance of such
 22 project.

23 “(2) Each report submitted under paragraph (1) for
 24 a project shall include, with respect to such project, the
 25 following:

1 “(A) An estimate of acquisition, implementa-
2 tion, and life cycle costs.

3 “(B) An intended implementation schedule indi-
4 cating significant milestones, initial operating capa-
5 bility, and full operating capability or completion.

6 “(C) Key business, functional, and performance
7 objectives.

8 “(b) BASELINE.—(1) The Secretary shall use the in-
9 formation on the cost, schedule, and performance of a
10 major information technology project included in the re-
11 port under subsection (a) as the baseline against which
12 changes or variances are measured during the life cycle
13 of such project.

14 “(2) The Secretary shall—

15 “(A) annually update the baseline of a major
16 information technology project pursuant to sub-
17 section (c); and

18 “(B) include such updated baseline in the docu-
19 ments providing detailed information on the budget
20 for the Department that the Secretary submits to
21 Congress in conjunction with the President’s budget
22 submission pursuant to section 1105 of title 31.

23 “(c) CHANGES AND VARIANCES.—(1) Not later than
24 60 days after the date on which the Secretary identifies
25 a change or variance described in paragraph (2) in the

1 cost, schedule, or performance of a major information
2 technology project, the Secretary, acting through the Chief
3 Information Officer, shall submit to the appropriate con-
4 gressional committees a notification of such change or
5 variance, including a description and explanation for such
6 change or variance.

7 “(2) A change or variance in the cost, schedule, or
8 performance of a major information technology project de-
9 scribed in this paragraph is—

10 “(A) with respect to the acquisition, implemen-
11 tation, or life cycle cost of the project, or an incre-
12 ment therein, a change or variance that is 10 per-
13 cent or greater compared to the baseline;

14 “(B) with respect to the schedule for achieving
15 a significant milestone, initial operating capability,
16 or final completion of the project, a change or vari-
17 ance that is 180 days or greater compared to the
18 baseline; or

19 “(C) with respect to the performance, an in-
20 stance where a key business, functional, or perform-
21 ance objective is not attained, or is not anticipated
22 to be attained, in whole or in part.

23 “(d) MANAGEMENT.—The Secretary shall ensure
24 that each major information technology project is man-

1 aged by an interdisciplinary team consisting of the fol-
2 lowing:

3 “(1) A project manager who is—

4 “(A) certified in project management at
5 level three by the Department or the Depart-
6 ment of Defense pursuant to section 1701a of
7 title 10, or who holds an equivalent certification
8 by a private sector project management certifi-
9 cation organization, as determined appropriate
10 by the Secretary; and

11 “(B) an employee of the Office of Informa-
12 tion and Technology of the Department or an
13 employee of an element of the Department at
14 which the project originates.

15 “(2) A functional lead who is an employee of
16 the element of the Department at which the project
17 originates.

18 “(3) A technical lead who is an employee of the
19 Office of Information and Technology of the Depart-
20 ment.

21 “(4) A contracting officer.

22 “(5) Sufficient other project management, func-
23 tional, technical, and procurement personnel as the
24 Secretary determines appropriate.

1 **“§ 8173. Information technology activities of the Fi-**
 2 **nancial Services Center**

3 “(a) MANAGEMENT.—Consistent with sections 11302
 4 and 11319 of title 40—

5 “(1) the Chief Information Officer of the De-
 6 partment shall—

7 “(A) exercise authority over the manage-
 8 ment, governance, and oversight processes relat-
 9 ing to information technology of the Financial
 10 Services Center of the Department, or such suc-
 11 cessor office; and

12 “(B) supervise the information technology
 13 employees and contractors of the Financial
 14 Services Center; and

15 “(2) the Director of the Financial Services Cen-
 16 ter of the Department, or the head of such successor
 17 office, may not enter into a contract or other agree-
 18 ment for information technology or information tech-
 19 nology services unless the contract or other agree-
 20 ment has been reviewed and approved by the Chief
 21 Information Officer.

22 “(b) OVERSIGHT.—The Chief Information Officer
 23 shall have oversight and operational authority over all in-
 24 formation security practices of the Financial Services Cen-
 25 ter of the Department.

1 **“§ 8174. Submission of annual reviews of information**
 2 **technology**

3 “(a) IN GENERAL.—The Secretary, acting through
 4 the Chief Information Officer of the Department, shall
 5 submit to the appropriate congressional committees each
 6 annual review of the information technology portfolio of
 7 the Department conducted pursuant to section
 8 11319(d)(3) of title 40.

9 “(b) FIRST SUBMISSION.—The first annual review
 10 submitted under subsection (a) shall include a copy of
 11 each previous annual review conducted under section
 12 11319(d)(3) of title 40.

13 **“§ 8175. Information technology matters to be in-**
 14 **cluded in budget justification materials**
 15 **for the Department**

16 “(a) LIST OF INFORMATION TECHNOLOGY PROJECTS
 17 IN EFFECT.—(1) The Secretary shall ensure that when-
 18 ever the budget justification materials are submitted to
 19 Congress in support of the Department budget for a fiscal
 20 year (as submitted with the budget of the President for
 21 such fiscal year under section 1105(a) of title 31), such
 22 budget justification materials include a list of every infor-
 23 mation technology project currently in effect at the De-
 24 partment.

1 “(2) Each list included under paragraph (1) shall in-
 2 clude, for each information technology project included in
 3 the list, the following:

4 “(A) The expenditures to date.

5 “(B) Planned expenditures for the upcoming
 6 fiscal year.

7 “(C) The scheduled completion date.

8 “(D) Any known deviation from the schedule,
 9 such as whether the information technology project
 10 is behind schedule.

11 “(E) The planned or actual functionality deliv-
 12 ered.

13 “(b) PRIORITIZED LIST OF UNFUNDED PROJECTS.—

14 (1) In addition to the list included in the budget justifica-
 15 tion materials required by subsection (a), the Secretary
 16 shall ensure that the budget justification materials de-
 17 scribed in such subsection also include a prioritized list,
 18 in rank order, of every proposed project of the Department
 19 that is unfunded as of the time of the inclusion of the
 20 list under this paragraph.

21 “(2) In producing the list required by paragraph (1),
 22 the Secretary shall—

23 “(A) ensure such list represents a ranking of all
 24 proposed projects that reflects the needs of all com-
 25 ponents of the Department;

1 “(B) produce one unified list for the entire De-
2 partment that shows how the various proposed
3 projects of each of the components of the Depart-
4 ment rank in priority with the projects of the other
5 components of the Department; and

6 “(C) ensure that the list—

7 “(i) does not disaggregate and rank
8 projects based on component of the Depart-
9 ment; and

10 “(ii) does identify the component of the
11 Department requesting the information tech-
12 nology project.

13 “(3)(A) In producing each list under paragraph (1),
14 the Secretary shall prioritize and rank each information
15 technology project based on an assessment of each of the
16 following factors:

17 “(i) Tangible benefits to veterans created or
18 produced by the information technology project.

19 “(ii) Operational or efficiency benefits to em-
20 ployees of the Department created or produced by
21 the information technology project.

22 “(iii) The cost of the information technology
23 project.

24 “(iv) The cost savings or cost avoidance yielded
25 by the information technology project.

1 “(v) Time to completion of the information
2 technology project.

3 “(vi) The difficulty of the information tech-
4 nology project, the likelihood the information tech-
5 nology project will be completed, or the risks associ-
6 ated with undertaking the information technology
7 project.

8 “(vii) Such other factors as the Secretary con-
9 siders appropriate.

10 “(B) The Secretary shall ensure that each list pro-
11 duced under paragraph (1) includes, for each information
12 technology project included in the list, a brief description
13 of the findings of the Secretary with respect to each as-
14 sessment carried out by the Secretary for each factor for
15 the information technology project under subparagraph
16 (A).

17 “(c) PROJECTED FUNDING NEEDS.—(1) In addition
18 to the matters included under subsections (a) and (b), the
19 Secretary shall ensure that the budget justification mate-
20 rials described in subsection (a) also include a projection
21 of the one-year, five-year, and 10-year funding needs of
22 the Department for information technology, disaggregated
23 by major business line of the Department that requires
24 the funding.

1 “(2) In addition to the projections under paragraph
 2 (1), the Secretary shall include a description of the fol-
 3 lowing, with respect to each of the periods set forth in
 4 such paragraph, disaggregated by major business line of
 5 the Department:

6 “(A) The information technology infrastructure
 7 and equipment requirements.

8 “(B) The funding required for development.

9 “(C) The funding required for operations and
 10 maintenance.

11 “(D) The funding required by cybersecurity.

12 “(E) Such other categories of the information
 13 technology needs of the Department as the Secretary
 14 considers relevant and important.

15 “(d) DECOMMISSIONING OF INFORMATION TECH-
 16 NOLOGY SYSTEMS.—(1) In addition to the matters in-
 17 cluded under subsections (a), (b), and (c), the Secretary
 18 shall ensure that the budget justification materials de-
 19 scribed in subsection (a) also include information about
 20 the decommissioning of information technology systems
 21 and applications of the Department.

22 “(2) Information included under paragraph (1) shall
 23 include the following:

24 “(A) A list of information systems and applica-
 25 tions of the Department that have been scheduled

1 for decommissioning or the Secretary proposes de-
2 commissioning.

3 “(B) For each information technology system
4 and application listed under subparagraph (A), the
5 following:

6 “(i) The cost of maintaining the informa-
7 tion technology system or application.

8 “(ii) A projection of the cost avoided if the
9 information technology system or application
10 were to be decommissioned.

11 “(iii) A schedule for decommissioning the
12 information technology system or application.

13 “(iv) Whether a transition plan for the
14 functionality of the information technology sys-
15 tem or application to be provided, when appro-
16 priate, by other information technology systems
17 or applications of the Department has been de-
18 veloped.

19 “(v) Performance data regarding whether
20 the Department has decommissioned the infor-
21 mation technology system or application that
22 was set forth under clause (iii) in the budget
23 justification materials for the previous fiscal
24 year.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of such chapter is amended by adding
 3 at the end the following:

“SUBCHAPTER VI—INFORMATION TECHNOLOGY PROJECTS AND ACTIVITIES

“Sec. 8171. Definitions.

“Sec. 8172. Management of major information technology projects.

“Sec. 8173. Information technology activities of the Financial Services Center.

“Sec. 8174. Submission of annual reviews of information technology.

“Sec. 8175. Information technology matters to be included in budget justification materials for the Department.”.

4 (c) APPLICATION; REPORT.—

5 (1) CURRENT AND NEW PROJECTS.—Except as
 6 specifically provided in subsection (a) of section
 7 8172 of title 38, United States Code, as added by
 8 subsection (a) of this section, such section 8172
 9 shall apply with respect to major information tech-
 10 nology projects that begin before, on, or after the
 11 date of the enactment of this Act.

12 (2) REPORT ON CURRENT PROJECTS.—

13 (A) IN GENERAL.—Not later than 90 days
 14 after the date of the enactment of this Act, the
 15 Secretary of Veterans Affairs shall submit to
 16 the appropriate congressional committees a re-
 17 port on each major information technology
 18 project that the Secretary is carrying out as of
 19 the date of the report.

20 (B) CONTENTS.—The report submitted
 21 under subparagraph (A) shall contain, with re-
 22 spect to each project described in such subpara-

1 graph, information on the cost, schedule, and
2 performance of the project as described in sub-
3 section (a) of section 8172 of such title, as so
4 added.

5 (3) DEFINITIONS.—In this subsection, the
6 terms “appropriate congressional committees” and
7 “major information technology project” have the
8 meanings given those terms in section 8171 of title
9 38, United States Code, as added by subsection (a)
10 of this section.

11 (d) EFFECTIVE DATE OF REQUIREMENT FOR
12 PROJECTS IN BUDGET JUSTIFICATION MATERIALS.—
13 Subsection (c) of section 8175 of such title, as added by
14 subsection (a) of this section, shall take effect on the first
15 Monday in the second January beginning after the date
16 of the enactment of this Act.

17 (e) EFFECTIVE DATE OF DECOMMISSIONING PER-
18 FORMANCE ELEMENT OF BUDGET JUSTIFICATION MATE-
19 RIALS.—Clause (v) of section 8175(d)(2)(B) of such title,
20 as added by subsection (a) of this section, shall take effect
21 on the first Monday in the second January beginning after
22 the date of the enactment of this Act.

1 **SEC. 3. ASSESSMENT OF SUITABILITY OF CLOUD MIGRA-**
2 **TION INVESTMENTS.**

3 (a) ASSESSMENT.—Not later than one year after the
4 date of the enactment of this Act, the Secretary of Vet-
5 erans Affairs, acting through the Chief Information Offi-
6 cer of the Department of Veterans Affairs, shall conduct
7 an assessment, in accordance with guidance from the Of-
8 fice of Management and Budget, of all information tech-
9 nology investments of the Department of Veterans Affairs
10 to determine the suitability of the investments for migra-
11 tion to a cloud computing service.

12 (b) CONSISTENT MECHANISM.—The Secretary, act-
13 ing through the Chief Information Officer, shall establish
14 a consistent and repeatable mechanism to track savings
15 and cost avoidances from—

16 (1) the migration of information technology in-
17 vestments to cloud computing services; and

18 (2) the deployment of cloud computing services.

19 **SEC. 4. REPORT ON INFORMATION TECHNOLOGY DASH-**
20 **BOARD INFORMATION.**

21 (a) REPORT.—Not later than 90 days after the date
22 of the enactment of this Act, the Secretary of Veterans
23 Affairs, acting through the Chief Information Officer of
24 the Department of Veterans Affairs, shall submit to the
25 appropriate congressional committees a report con-
26 taining—

1 (1) an explanation of the ratings, rankings, and
2 risk categorizations used by the Chief Information
3 Officer pursuant to subparagraph (C) of section
4 11302(c)(3) of title 40, United States Code, with re-
5 spect to the information technology dashboard of the
6 Office of Management and Budget developed under
7 such section; and

8 (2) copies of supporting or explanatory informa-
9 tion provided by the Chief Information Officer to the
10 Office of Management and Budget with respect to
11 submissions by the Chief Information Officer to the
12 information technology dashboard for the fiscal year
13 in which the report is submitted (other than infor-
14 mation not otherwise made public pursuant to such
15 section).

16 (b) APPROPRIATE CONGRESSIONAL COMMITTEES
17 DEFINED.—In this section, the term “appropriate con-
18 gressional committees” has the meaning given such term
19 in section 8171 of title 38, United States Code, as added
20 by section 2.

○