

Mr. PRYOR. I ask unanimous consent that the bill be read a third time and passed and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5062) was ordered to a third reading, was read the third time, and passed.

DEPARTMENT OF VETERANS AFFAIRS EXPIRING AUTHORITIES ACT OF 2014

Mr. PRYOR. I ask unanimous consent that the Senate proceed to the consideration of H.R. 5404, which is at the desk.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5404) to amend title 38, United States Code, to extend certain expiring provisions of law administered by the Secretary of Veterans Affairs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. PRYOR. Mr. President, I ask unanimous consent that the bill be read a third time and passed and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5404) was ordered to a third reading, was read a third time, and passed.

FEDERAL DATA CENTER CONSOLIDATION ACT

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 372, S. 1611.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1611) to require certain agencies to conduct assessments of data centers and develop data center consolidation and optimization plans.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 1611

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Data Center Consolidation Act of 2013”.

SEC. 2. FEDERAL DATA CENTER CONSOLIDATION INITIATIVE.

(a) DEFINITIONS.—In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator for the Office of E-Government and Information Technology within the Office of Management and Budget.

(2) COVERED AGENCY.—The term “covered agency” means the following (including all associated components of the agency):

- (A) Department of Agriculture;
- (B) Department of Commerce;
- (C) Department of Defense;

- (D) Department of Education;
- (E) Department of Energy;
- (F) Department of Health and Human Services;
- (G) Department of Homeland Security;
- (H) Department of Housing and Urban Development;
- (I) Department of the Interior;
- (J) Department of Justice;
- (K) Department of Labor;
- (L) Department of State;
- (M) Department of Transportation;
- (N) Department of Treasury;
- (O) Department of Veterans Affairs;
- (P) Environmental Protection Agency;
- (Q) General Services Administration;
- (R) National Aeronautics and Space Administration;
- (S) National Science Foundation;
- (T) Nuclear Regulatory Commission;
- (U) Office of Personnel Management;
- (V) Small Business Administration;
- (W) Social Security Administration; and
- (X) United States Agency for International Development.

(3) FDCCI.—The term “FDCCI” means the Federal Data Center Consolidation Initiative described in the Office of Management and Budget Memorandum on the Federal Data Center Consolidation Initiative, dated February 26, 2010, or any successor thereto.

(4) GOVERNMENT-WIDE DATA CENTER CONSOLIDATION AND OPTIMIZATION METRICS.—The term “Government-wide data center consolidation and optimization metrics” means the metrics established by the Administrator under subsection (b)(2)(G).

(b) FEDERAL DATA CENTER CONSOLIDATION INVENTORIES AND STRATEGIES.—

(1) IN GENERAL.—

(A) ANNUAL REPORTING.—Each year, beginning in the first fiscal year after the date of enactment of this Act and each fiscal year thereafter, the head of each covered agency, assisted by the Chief Information Officer of the agency, shall submit to the Administrator—

(i) a comprehensive inventory of the data centers owned, operated, or maintained by or on behalf of the agency; and

(ii) a multi-year strategy to achieve the consolidation and optimization of the data centers inventoried under clause (i), that includes—

(I) performance metrics—

(aa) that are consistent with the Government-wide data center consolidation and optimization metrics; and

(bb) by which the quantitative and qualitative progress of the agency toward the goals of the FDCCI can be measured;

(II) a timeline for agency activities to be completed under the FDCCI, with an emphasis on benchmarks the agency can achieve by specific dates;

(III) year-by-year calculations of investment and cost savings for the period beginning on the date of enactment of this Act and ending on the date described in subsection (e), broken down by each year, including a description of any initial costs for data center consolidation and optimization and life cycle cost savings and other improvements, with an emphasis on—

(aa) meeting the Government-wide data center consolidation and optimization metrics; and

(bb) demonstrating the amount of agency-specific cost savings each fiscal year achieved through the FDCCI; and

(IV) any additional information required by the Administrator.

(B) USE OF OTHER REPORTING STRUCTURES.—The Administrator may require a covered agency to include the information required to be submitted under this subsection through reporting structures determined by the Administrator to be appropriate.

(C) STATEMENT.—Each year, beginning in the first fiscal year after the date of enactment of this Act and each fiscal year thereafter, the head of each covered agency, acting through

the Chief Information Officer of the agency, shall—

(i) submit a statement to the Administrator stating whether the agency has complied with the requirements of this Act; and

(II) make the statement submitted under subclause (I) publicly available; and

(ii) if the agency has not complied with the requirements of this Act, submit a statement to the Administrator explaining the reasons for not complying with such requirements.

(D) AGENCY IMPLEMENTATION OF STRATEGIES.—Each covered agency, under the direction of the Chief Information Officer of the agency, shall—

(i) implement the strategy required under subparagraph (A)(ii); and

(ii) provide updates to the Administrator, on a quarterly basis, of—

(I) the completion of activities by the agency under the FDCCI;

(II) any progress of the agency towards meeting the Government-wide data center consolidation and optimization metrics; and

(III) the actual cost savings and other improvements realized through the implementation of the strategy of the agency.

(E) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the reporting of information by a covered agency to the Administrator, the Director of the Office of Management and Budget, or Congress.

(2) ADMINISTRATOR RESPONSIBILITIES.—The Administrator shall—

(A) establish the deadline, on an annual basis, for covered agencies to submit information under this section;

(B) establish a list of requirements that the covered agencies must meet to be considered in compliance with paragraph (1);

(C) ensure that information relating to agency progress towards meeting the Government-wide data center consolidation and optimization metrics is made available in a timely manner to the general public;

(D) review the inventories and strategies submitted under paragraph (1) to determine whether they are comprehensive and complete;

(E) monitor the implementation of the data center strategy of each covered agency that is required under paragraph (1)(A)(ii);

(F) update, on an annual basis, the cumulative cost savings realized through the implementation of the FDCCI; and

(G) establish metrics applicable to the consolidation and optimization of data centers Government-wide, including metrics with respect to—

(i) costs;

(ii) efficiencies, including at least server efficiency; and

(iii) any other metrics the Administrator establishes under this subparagraph.

(3) COST SAVING GOAL AND UPDATES FOR CONGRESS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall develop, and make publicly available, a goal, broken down by year, for the amount of planned cost savings and optimization improvements achieved through the FDCCI during the period beginning on the date of enactment of this Act and ending on the date described in subsection (e).

(B) ANNUAL UPDATE.—

(i) IN GENERAL.—Not later than 1 year after the date on which the goal described in subparagraph (A) is made publicly available, and each year thereafter, the Administrator shall aggregate the reported cost savings of each covered agency and optimization improvements achieved to date through the FDCCI and compare the savings to the projected cost savings and optimization improvements developed under subparagraph (A).

(ii) UPDATE FOR CONGRESS.—The goal required to be developed under subparagraph (A) shall be submitted to Congress and shall be accompanied by a statement describing—

(I) whether each covered agency has in fact submitted a comprehensive asset inventory, including an assessment broken down by agency, which shall include the specific numbers, utilization, and efficiency level of data centers; and

(II) whether each covered agency has submitted a comprehensive consolidation strategy with the key elements described in paragraph (1)(A)(ii).

(4) GAO REVIEW.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Comptroller General of the United States shall review and verify the quality and completeness of the asset inventory and strategy of each covered agency required under paragraph (1)(A).

(B) REPORT.—The Comptroller General of the United States shall, on an annual basis, publish a report on each review conducted under subparagraph (A).

(c) ENSURING CYBERSECURITY STANDARDS FOR DATA CENTER CONSOLIDATION AND CLOUD COMPUTING.—

(I) IN GENERAL.—In implementing a data center consolidation and optimization strategy under this Act, a covered agency shall do so in a manner that is consistent with Federal guidelines on cloud computing security, including—

(A) applicable provisions found within the Federal Risk and Authorization Management Program (FedRAMP); and

(B) guidance published by the National Institute of Standards and Technology.

(2) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the ability of the Director of the Office of Management and Budget to update or modify the Federal guidelines on cloud computing security.

(d) WAIVER OF DISCLOSURE REQUIREMENTS.—The Director of National Intelligence may waive the applicability to any element (or component of an element) of the intelligence community of any provision of this Act if the Director of National Intelligence determines that such waiver is in the interest of national security. Not later than 30 days after making a waiver under this subsection, the Director of National Intelligence shall submit to the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate and the Committee on Oversight and Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives a statement describing the waiver and the reasons for the waiver.

(e) SUNSET.—This Act is repealed effective on October 1, 2018.

Mr. PRYOR. I ask unanimous consent that the committee-reported substitute amendment be considered, the Bennet and Carper amendments, which are at the desk, be agreed to en bloc, and the committee-reported amendment, as amended, be agreed to, and the bill, as amended, be read a third time and passed, and the motion to reconsider be considered made and laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3930) was agreed to, as follows:

(Purpose: To clarify reporting requirements for the Department of Defense)

On page 16, between lines 18 and 19, insert the following:

(C) DEPARTMENT OF DEFENSE REPORTING.—For any year that the Department of Defense is required to submit a performance plan for reduction of resources required for data servers and centers, as required under section 2867(b) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note), the Department of Defense—

(i) may submit to the Administrator, in lieu of the multi-year strategy required under subparagraph (A)(ii)—

(I) the defense-wide plan required under section 2867(b)(2) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note); and

(II) the report on cost savings required under section 2867(d) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note); and

(ii) shall submit the comprehensive inventory required under subparagraph (A)(i), unless the defense-wide plan required under section 2867(b)(2) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note)—

(I) contains a comparable comprehensive inventory; and

(II) is submitted under clause (i).

The amendment (No. 3929) was agreed to, as follows:

(Purpose: To modify the provision relating to waiver of requirements)

On page 22, strike lines 11 through 24, and insert the following:

(d) WAIVER OF REQUIREMENTS.—The Director of National Intelligence and the Secretary of Defense, or their respective designee, may waive the applicability to any national security system, as defined in section 3542 of title 44, United States Code, of any provision of this Act if the Director of National Intelligence or the Secretary of Defense, or their respective designee, determines that such waiver is in the interest of national security. Not later than 30 days after making a waiver under this subsection, the Director of National Intelligence or the Secretary of Defense, or their respective designee, shall submit to the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate and the Committee on Oversight and Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives a statement describing the waiver and the reasons for the waiver.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1611), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Data Center Consolidation Act of 2013”.

SEC. 2. FEDERAL DATA CENTER CONSOLIDATION INITIATIVE.

(a) DEFINITIONS.—In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator for the Office of E-Government and Information Technology within the Office of Management and Budget.

(2) COVERED AGENCY.—The term “covered agency” means the following (including all associated components of the agency):

- (A) Department of Agriculture;
- (B) Department of Commerce;
- (C) Department of Defense;
- (D) Department of Education;
- (E) Department of Energy;
- (F) Department of Health and Human Services;
- (G) Department of Homeland Security;
- (H) Department of Housing and Urban Development;
- (I) Department of the Interior;

- (J) Department of Justice;
- (K) Department of Labor;
- (L) Department of State;
- (M) Department of Transportation;
- (N) Department of Treasury;
- (O) Department of Veterans Affairs;
- (P) Environmental Protection Agency;
- (Q) General Services Administration;
- (R) National Aeronautics and Space Administration;
- (S) National Science Foundation;
- (T) Nuclear Regulatory Commission;
- (U) Office of Personnel Management;
- (V) Small Business Administration;
- (W) Social Security Administration; and
- (X) United States Agency for International Development.

(3) FDCCI.—The term “FDCCI” means the Federal Data Center Consolidation Initiative described in the Office of Management and Budget Memorandum on the Federal Data Center Consolidation Initiative, dated February 26, 2010, or any successor thereto.

(4) GOVERNMENT-WIDE DATA CENTER CONSOLIDATION AND OPTIMIZATION METRICS.—The term “Government-wide data center consolidation and optimization metrics” means the metrics established by the Administrator under subsection (b)(2)(G).

(b) FEDERAL DATA CENTER CONSOLIDATION INVENTORIES AND STRATEGIES.—

(1) IN GENERAL.—

(A) ANNUAL REPORTING.—Each year, beginning in the first fiscal year after the date of enactment of this Act and each fiscal year thereafter, the head of each covered agency, assisted by the Chief Information Officer of the agency, shall submit to the Administrator—

(i) a comprehensive inventory of the data centers owned, operated, or maintained by or on behalf of the agency; and

(ii) a multi-year strategy to achieve the consolidation and optimization of the data centers inventoried under clause (i), that includes—

(I) performance metrics—

(aa) that are consistent with the Government-wide data center consolidation and optimization metrics; and

(bb) by which the quantitative and qualitative progress of the agency toward the goals of the FDCCI can be measured;

(II) a timeline for agency activities to be completed under the FDCCI, with an emphasis on benchmarks the agency can achieve by specific dates;

(III) year-by-year calculations of investment and cost savings for the period beginning on the date of enactment of this Act and ending on the date described in subsection (e), broken down by each year, including a description of any initial costs for data center consolidation and optimization and life cycle cost savings and other improvements, with an emphasis on—

(aa) meeting the Government-wide data center consolidation and optimization metrics; and

(bb) demonstrating the amount of agency-specific cost savings each fiscal year achieved through the FDCCI; and

(IV) any additional information required by the Administrator.

(B) USE OF OTHER REPORTING STRUCTURES.—The Administrator may require a covered agency to include the information required to be submitted under this subsection through reporting structures determined by the Administrator to be appropriate.

(C) DEPARTMENT OF DEFENSE REPORTING.—For any year that the Department of Defense is required to submit a performance plan for reduction of resources required for data servers and centers, as required under section 2867(b) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note), the Department of Defense—

(i) may submit to the Administrator, in lieu of the multi-year strategy required under subparagraph (A)(ii)—

(I) the defense-wide plan required under section 2867(b)(2) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note); and

(II) the report on cost savings required under section 2867(d) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note); and

(ii) shall submit the comprehensive inventory required under subparagraph (A)(i), unless the defense-wide plan required under section 2867(b)(2) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note)—

(I) contains a comparable comprehensive inventory; and

(II) is submitted under clause (i).

(D) STATEMENT.—Each year, beginning in the first fiscal year after the date of enactment of this Act and each fiscal year thereafter, the head of each covered agency, acting through the Chief Information Officer of the agency, shall—

(i)(I) submit a statement to the Administrator stating whether the agency has complied with the requirements of this Act; and

(II) make the statement submitted under subclause (I) publicly available; and

(ii) if the agency has not complied with the requirements of this Act, submit a statement to the Administrator explaining the reasons for not complying with such requirements.

(E) AGENCY IMPLEMENTATION OF STRATEGIES.—Each covered agency, under the direction of the Chief Information Officer of the agency, shall—

(i) implement the strategy required under subparagraph (A)(ii); and

(ii) provide updates to the Administrator, on a quarterly basis, of—

(I) the completion of activities by the agency under the FDCCI;

(II) any progress of the agency towards meeting the Government-wide data center consolidation and optimization metrics; and

(III) the actual cost savings and other improvements realized through the implementation of the strategy of the agency.

(F) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the reporting of information by a covered agency to the Administrator, the Director of the Office of Management and Budget, or Congress.

(2) ADMINISTRATOR RESPONSIBILITIES.—The Administrator shall—

(A) establish the deadline, on an annual basis, for covered agencies to submit information under this section;

(B) establish a list of requirements that the covered agencies must meet to be considered in compliance with paragraph (1);

(C) ensure that information relating to agency progress towards meeting the Government-wide data center consolidation and optimization metrics is made available in a timely manner to the general public;

(D) review the inventories and strategies submitted under paragraph (1) to determine whether they are comprehensive and complete;

(E) monitor the implementation of the data center strategy of each covered agency that is required under paragraph (1)(A)(ii);

(F) update, on an annual basis, the cumulative cost savings realized through the implementation of the FDCCI; and

(G) establish metrics applicable to the consolidation and optimization of data centers Government-wide, including metrics with respect to—

(i) costs;

(ii) efficiencies, including at least server efficiency; and

(iii) any other metrics the Administrator establishes under this subparagraph.

(3) COST SAVING GOAL AND UPDATES FOR CONGRESS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall develop, and make publicly available, a goal, broken down by year, for the amount of planned cost savings and optimization improvements achieved through the FDCCI during the period beginning on the date of enactment of this Act and ending on the date described in subsection (e).

(B) ANNUAL UPDATE.—

(i) IN GENERAL.—Not later than 1 year after the date on which the goal described in subparagraph (A) is made publicly available, and each year thereafter, the Administrator shall aggregate the reported cost savings of each covered agency and optimization improvements achieved to date through the FDCCI and compare the savings to the projected cost savings and optimization improvements developed under subparagraph (A).

(ii) UPDATE FOR CONGRESS.—The goal required to be developed under subparagraph (A) shall be submitted to Congress and shall be accompanied by a statement describing—

(I) whether each covered agency has in fact submitted a comprehensive asset inventory, including an assessment broken down by agency, which shall include the specific numbers, utilization, and efficiency level of data centers; and

(II) whether each covered agency has submitted a comprehensive consolidation strategy with the key elements described in paragraph (1)(A)(ii).

(4) GAO REVIEW.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Comptroller General of the United States shall review and verify the quality and completeness of the asset inventory and strategy of each covered agency required under paragraph (1)(A).

(B) REPORT.—The Comptroller General of the United States shall, on an annual basis, publish a report on each review conducted under subparagraph (A).

(C) ENSURING CYBERSECURITY STANDARDS FOR DATA CENTER CONSOLIDATION AND CLOUD COMPUTING.—

(1) IN GENERAL.—In implementing a data center consolidation and optimization strategy under this Act, a covered agency shall do so in a manner that is consistent with Federal guidelines on cloud computing security, including—

(A) applicable provisions found within the Federal Risk and Authorization Management Program (FedRAMP); and

(B) guidance published by the National Institute of Standards and Technology.

(2) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the ability of the Director of the Office of Management and Budget to update or modify the Federal guidelines on cloud computing security.

(d) WAIVER OF REQUIREMENTS.—The Director of National Intelligence and the Secretary of Defense, or their respective designee, may waive the applicability to any national security system, as defined in section 3542 of title 44, United States Code, of any provision of this Act if the Director of National Intelligence or the Secretary of Defense, or their respective designee, determines that such waiver is in the interest of national security. Not later than 30 days after making a waiver under this subsection, the Director of National Intelligence or the Secretary of Defense, or their respective designee, shall submit to the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intel-

ligence of the Senate and the Committee on Oversight and Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives a statement describing the waiver and the reasons for the waiver.

(e) SUNSET.—This Act is repealed effective on October 1, 2018.

BORDER PATROL AGENT PAY REFORM ACT OF 2014

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 548, S. 1691.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1691) to amend title 5, United States Code, to improve the security of the United States border and to provide for reforms and rates of pay for border patrol agents.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 1691

SECTION 1. SHORT TITLE.

This Act may be cited as the “Border Patrol Agent Pay Reform Act of 2014”.

SEC. 2. BORDER PATROL RATE OF PAY.

(a) PURPOSE.—The purposes of this Act are—

(1) to strengthen U.S. Customs and Border Protection and ensure that border patrol agents are sufficiently ready to conduct necessary work and will perform overtime hours in excess of a 40-hour workweek based on the needs of U.S. Customs and Border Protection; and

(2) to ensure U.S. Customs and Border Protection has the flexibility to cover shift changes and retains the right to assign scheduled and unscheduled work for mission requirements and planning based on operational need.

(b) RATES OF PAY.—Subchapter V of chapter 55 of title 5, United States Code, is amended by inserting after section 5549 the following:

“§5550. Border patrol rate of pay

“(a) DEFINITIONS.—In this section—

“(1) the term ‘basic border patrol rate of pay’ means the hourly rate of basic pay of the applicable border patrol, as determined without regard to this section;

“(2) the term ‘border patrol agent’ means an individual who is appointed to a position assigned to the Border Patrol Enforcement classification series 1896 or any successor series, consistent with classification standards established by the Office of Personnel Management;

“(3) the term ‘level 1 border patrol rate of pay’ means the hourly rate of pay equal to 1.25 times the otherwise applicable hourly rate of basic pay of the applicable border patrol agent;

“(4) the term ‘level 2 border patrol rate of pay’ means the hourly rate of pay equal to 1.125 times the otherwise applicable hourly rate of basic pay of the applicable border patrol agent; and

“(5) the term ‘work period’ means a 14-day bi-weekly pay period.

“(b) RECEIPT OF BORDER PATROL RATE OF PAY.—

“(1) VOLUNTARY ELECTION.—

“(A) IN GENERAL.—Not later than 30 days before the first day of each year beginning after the date of enactment of this section, a border patrol agent shall make an election whether the border patrol agent shall, for that year, be assigned to—