

I of division F of the Consolidated Appropriations Act of 2016 (Public Law 114–113; 129 Stat. 2493), after receipt by the Under Secretary for Management of notification under that subsection.

“(2) SIGNIFICANT VARIANCES IN COSTS OR SCHEDULE.—If a likely cost overrun is greater than 20 percent or a likely delay is greater than 12 months from the costs and schedule specified in the acquisition program baseline for a major acquisition program, the Under Secretary for Management shall include in the notification required in paragraph (1) a written certification, with supporting explanation, that—

“(A) the program is essential to the accomplishment of the mission of the Department;

“(B) there are no alternatives to the capability or asset provided by the program that will provide equal or greater capability in a more cost-effective and timely manner;

“(C) the new acquisition schedule and estimates for total acquisition cost are reasonable; and

“(D) the management structure for the program is adequate to manage and control cost, schedule, and performance.”

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by inserting after the item relating to section 835 the following:

“Sec. 836. Congressional notification and other requirements for major acquisition program breach.”

### SEC. 3. REPORT ON BID PROTESTS.

(a) DEFINITIONS.—In this section—

(1) the term “appropriate committees of Congress” has the meaning given the term in section 836(a) of the Homeland Security Act of 2002, as added by section 2(a); and

(2) the term “Department” means the Department of Homeland Security.

(b) STUDY AND REPORT.—Not later than 1 year after the date of enactment of this Act, the Inspector General of the Department shall conduct a study, in consultation with the Government Accountability Office when necessary, and submit to the appropriate committees of Congress a report on the prevalence and impact of bid protests on the acquisition process of the Department, in particular bid protests filed with the Government Accountability Office and the United States Court of Federal Claims.

(c) CONTENTS.—The report required under subsection (b) shall include—

(1) with respect to contracts with the Department—

(A) trends in the number of bid protests filed with Federal agencies, the Government Accountability Office, and Federal courts and the rate of those bid protests compared to contract obligations and the number of contracts;

(B) an analysis of bid protests filed by incumbent contractors, including the rate at which those contractors are awarded bridge contracts or contract extensions over the period during which the bid protest remains unresolved;

(C) a comparison of the number of bid protests and the outcome of bid protests for—

(i) awards of contracts compared to awards of task or delivery orders;

(ii) contracts or orders primarily for products compared to contracts or orders primarily for services;

(iii) protests filed pre-award to challenge the solicitation compared to those filed post-award;

(iv) contracts or awards with single protestors compared to multiple protestors; and

(v) contracts with single awards compared to multiple award contracts;

(D) a description of trends in the number of bid protests filed as a percentage of con-

tracts and as a percentage of task or delivery orders by the value of the contract or order with respect to—

(i) contracts valued at more than \$300,000,000;

(ii) contracts valued at not less than \$50,000,000 and not more than \$300,000,000;

(iii) contracts valued at not less than \$10,000,000 and not more than \$50,000,000; and

(iv) contracts valued at less than \$10,000,000;

(E) an assessment of the cost and schedule impact of successful and unsuccessful bid protests, as well as delineation of litigation costs, filed on major acquisitions with more than \$100,000,000 in annual expenditures or \$300,000,000 in lifecycle costs;

(F) an analysis of how often bid protestors are awarded the contract that was the subject of the bid protest;

(G) a summary of the results of bid protests in which the Department took unilateral corrective action, including the average time for remedial action to be completed;

(H) the time it takes the Department to implement corrective actions after a ruling or decision with respect to a bid protest, and the percentage of those corrective actions that are subsequently protested, including the outcome of any subsequent bid protest;

(I) an analysis of those contracts with respect to which a company files a bid protest and later files a subsequent bid protest; and

(J) an assessment of the overall time spent on preventing and responding to bid protests as it relates to the procurement process; and

(2) any recommendations by the Inspector General of the Department relating to the study conducted under this section.

### AUTHORITY FOR COMMITTEES TO MEET

Mr. SULLIVAN. Mr. President, I have 5 requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

#### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The Committee on Agriculture, Nutrition, and Forestry is authorized to meet during the session of the Senate on Thursday, November 9, 2017, at 9:30 a.m., in SR–328A to conduct a hearing on S. 2099.

#### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The Committee on Agriculture, Nutrition, and Forestry is authorized to meet during the session of the Senate on Thursday, November 9, 2017, at 9:30 a.m., in SR–328A to conduct a hearing on the following nominations: Glen R. Smith, of Iowa, to be a Member of the Farm Credit Administration Board, and Stephen Alexander Vaden, of Tennessee, to be General Counsel of the Department of Agriculture.

#### COMMITTEE ON ARMED SERVICES

The Committee on Armed Services is authorized to meet during the session of the Senate on Thursday, November 9, 2017 at 10 a.m. to conduct a hearing on the following nominations: Robert H. McMahon, of Georgia, to be an Assistant Secretary, R. D. James, of Mis-

souri, and Bruce D. Jette, of Virginia, both to be an Assistant Secretary of the Army, and Shon J. Manasco, of Texas, to be an Assistant Secretary of the Air Force, all of the Department of Defense.

#### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

The Committee on Homeland Security and Governmental Affairs is authorized to meet during the session of the Senate on Thursday, November 9, 2017, at 10:30 a.m. to conduct a hearing on the nomination of Kirstjen Nielsen, of Virginia, to be Secretary of Homeland Security, Ernest W. Dubester, of Virginia, Colleen Kiko, of North Dakota, and James Thomas Abbott, of Virginia, each to be a Member of the Federal Labor Relations Authority, and Jonathan H. Pittman, to be an Associate Judge of the Superior Court of the District of Columbia.

#### COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Thursday, November 9, 2017, at 10 a.m., in room SD–226 to conduct a hearing on S. 2070 and the following nominations: Gregory G. Katsas, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit, Jeffrey Uhlman Beaverstock, to be United States District Judge for the Southern District of Alabama, Emily Coody Marks, and Brett Joseph Talley, both to be a United States District Judge for the Middle District of Alabama, Holly Lou Teeter, to be United States District Judge for the District of Kansas, and Bobby L. Christine, to be United States Attorney for the Southern District of Georgia, and David J. Freed, to be United States Attorney for the Middle District of Pennsylvania, both of the Department of Justice.

### PRIVILEGES OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent that Martin Pippins, a detailee on the Senate Committee on Finance, be granted floor privileges for the duration of this Congress.

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

Mr. PETERS. Mr. President, I ask unanimous consent that privileges of the floor be granted to the following member of my staff, Sarah Anderson, for today's session.

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

### STATE VETERANS HOME ADULT DAY HEALTH CARE IMPROVEMENT ACT OF 2017

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of S. 324 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 324) to amend title 38, United States Code, to improve the provision of adult day health care services for veterans.

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

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Hatch substitute amendment be considered and agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

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

The amendment (No. 1581) in the nature of a substitute was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “State Veterans Home Adult Day Health Care Improvement Act of 2017”.

#### SEC. 2. PROVISION OF CERTAIN ADULT DAY HEALTH CARE SERVICES FOR VETERANS.

(a) IN GENERAL.—Section 1745 of title 38, United States Code, is amended—

(1) by adding at the end the following new subsection:

“(d)(1) The Secretary shall enter into an agreement with each State home for payment by the Secretary for medical supervision model adult day health care provided to a veteran described in subsection (a)(1) on whose behalf the State home is not in receipt of payment for nursing home care from the Secretary.

“(2)(A) Payment under each agreement between the Secretary and a State home under paragraph (1) for each veteran who receives medical supervision model adult day health care under such agreement shall be made at a rate established through regulations prescribed by the Secretary to adequately reimburse the State home for the care provided by the State home, including necessary transportation expenses.

“(B) The Secretary shall consult with the State homes in prescribing regulations under subparagraph (A).

“(C) The rate established through regulations under subparagraph (A) shall not take effect until the date that is 30 days after the date on which those regulations are published in the Federal Register.

“(3) Payment by the Secretary under paragraph (1) to a State home for medical supervision model adult day health care provided to a veteran described in that paragraph constitutes payment in full to the State home for such care furnished to that veteran.

“(4) In this subsection, the term ‘medical supervision model adult day health care’ means adult day health care that includes the coordination of physician services, dental services, nursing services, the administration of drugs, and such other requirements as determined appropriate by the Secretary.”; and

(2) in the section heading, by inserting “, adult day health care,” after “home care”.

(b) INITIAL RATE.—Before the Secretary of Veterans Affairs establishes a payment rate under subsection (d)(2)(A) of section 1745 of such title, as added by subsection (a), the Secretary shall pay to a State home that has entered into an agreement with the Secretary for medical supervision model adult day health care (as defined in subsection

(d)(4) of such section) an amount equal to 65 percent of the rate the Secretary would pay under subsection (a)(2) of such section to the State home for nursing home care provided to the veteran.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by striking the item relating to section 1745 and inserting the following new item:

“1745. Nursing home care, adult day health care, and medications for veterans with service-connected disabilities.”.

The bill (S. 324), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

#### DHS ACQUISITION REVIEW BOARD ACT OF 2017

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 240, S. 886.

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

The legislative clerk read as follows:

A bill (S. 886) to amend the Homeland Security Act of 2002 to establish an Acquisition Review Board in the Department of Homeland Security, and for other purposes.

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

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Daines substitute amendment at the desk be considered and agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

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

The amendment (No. 1582) in the nature of a substitute was agreed to.

(The amendment is printed in today’s RECORD under “Text of Amendments.”)

The bill (S. 886), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

#### REDUCING DHS ACQUISITION COST GROWTH ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 234, S. 906.

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

The legislative clerk read as follows:

A bill (S. 906) to amend the Homeland Security Act of 2002 to provide for congressional notification regarding major acquisition program breaches, and for other purposes.

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, as follows:

(The part of the bill intended to be inserted is shown in italics.)

S. 906

*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 “Reducing DHS Acquisition Cost Growth Act”.

#### SEC. 2. CONGRESSIONAL NOTIFICATION FOR MAJOR ACQUISITION PROGRAMS.

(a) IN GENERAL.—Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is amended by adding at the end the following:

#### “SEC. 836. CONGRESSIONAL NOTIFICATION AND OTHER REQUIREMENTS FOR MAJOR ACQUISITION PROGRAM BREACH.

“(a) DEFINITIONS.—In this section:

“(1) ACQUISITION.—The term ‘acquisition’ has the meaning given the term in section 131 of title 41, United States Code.

“(2) ACQUISITION PROGRAM.—The term ‘acquisition program’ means the process by which the Department acquires, with any appropriated amounts, by contract for purchase or lease, property or services (including construction) that support the missions and goals of the Department.

“(3) ACQUISITION PROGRAM BASELINE.—The term ‘acquisition program baseline’, with respect to an acquisition program, means a summary of the cost, schedule, and performance parameters, expressed in standard, measurable, quantitative terms, which shall be met in order to accomplish the goals of the program.

“(4) APPROPRIATE COMMITTEES OF CONGRESS.—The term ‘appropriate committees of Congress’ has the meaning given the term in section 226(a).

“(5) BEST PRACTICES.—The term ‘best practices’, with respect to acquisition, means a knowledge-based approach to capability development that includes—

“(A) identifying and validating needs;

“(B) assessing alternatives to select the most appropriate solution;

“(C) clearly establishing well-defined requirements;

“(D) developing realistic cost assessments and schedules;

“(E) securing stable funding that matches resources to requirements;

“(F) demonstrating technology, design, and manufacturing maturity;

“(G) using milestones and exit criteria or specific accomplishments that demonstrate progress;

“(H) adopting and executing standardized processes with known success across programs;

“(I) establishing an adequate workforce that is qualified and sufficient to perform necessary functions; and

“(J) integrating the capabilities described in subparagraphs (A) through (I) into the mission and business operations of the Department.

“(6) BREACH.—The term ‘breach’, with respect to a major acquisition program, means a failure to meet any cost, schedule, or performance threshold specified in the most recently approved acquisition program baseline.

“(7) COMPONENT ACQUISITION EXECUTIVE.—The term ‘Component Acquisition Executive’ means the senior acquisition official within a component who is designated in writing by the Under Secretary for Management, in consultation with the component head, with authority and responsibility for leading a process and staff to provide acquisition and program management oversight, policy, and guidance to ensure that statutory, regulatory, and higher level policy requirements are fulfilled, including compliance with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives established by the Under Secretary for Management.

“(8) MAJOR ACQUISITION PROGRAM.—The term ‘major acquisition program’ means an acquisition program of the Department that