

cost-effective procedures to ensure that a social security account number (or any derivative thereof) is not displayed, coded, or embedded on the Medicare card issued to an individual who is entitled to benefits under part A of title XVIII or enrolled under part B of title XVIII and that any other identifier displayed on such card is easily identifiable as not being the social security account number (or a derivative thereof)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply with respect to Medicare cards issued on and after an effective date specified by the Secretary of Health and Human Services, but in no case shall such effective date be later than the date that is 24 months after the date adequate funding is provided pursuant to subsection (d)(2).

(2) REISSUANCE.—Subject to subsection (d)(2), in the case of individuals who have been issued such cards before such date, the Secretary of Health and Human Services—

(A) shall provide for the reissuance for such individuals of such a card that complies with such amendment not later than 3 years after the effective date specified under paragraph (1); and

(B) may permit such individuals to apply for the reissuance of such a card that complies with such amendment before the date of reissuance otherwise provided under subparagraph (A) in such exceptional circumstances as the Secretary may specify.

(c) OUTREACH PROGRAM.—Subject to subsection (d)(2), the Secretary of Health and Human Services, in consultation with the Commissioner of Social Security, shall conduct an outreach program to Medicare beneficiaries and providers about the new Medicare card provided under this section.

(d) REPORT TO CONGRESS AND LIMITATIONS ON EFFECTIVE DATE.—

(1) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services and in consultation with the Commissioner of Social Security, shall submit to Congress a report that includes detailed options regarding the implementation of this section, including line-item estimates of and justifications for the costs associated with such options and estimates of timeframes for each stage of implementation. In recommending such options, the Secretary shall take into consideration, among other factors, cost-effectiveness and beneficiary outreach and education.

(2) LIMITATION; MODIFICATION OF DEADLINES.—With respect to the amendment made by subsection (a), and the requirements of subsections (b) and (c)—

(A) such amendment and requirements shall not apply until adequate funding is transferred pursuant to section 11(b) to implement the provisions of this section, as determined by Congress; and

(B) any deadlines otherwise established under this section for such amendment and requirements are contingent upon the receipt of adequate funding (as determined in subparagraph (A)) for such implementation. The previous sentence shall not affect the timely submission of the report required under paragraph (1).

#### SEC. 969. IMPLEMENTATION.

(a) EMPOWERING THE HHS OIG AND GAO.—Except as otherwise provided, to the extent practicable, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(1) carry out the provisions of and amendments made by this subtitle in consultation with the Inspector General of the Department of Health and Human Services; and

(2) take into consideration the findings and recommendations of the Comptroller General of the United States in carrying out such provisions and amendments.

(b) FUNDING.—The Secretary shall provide for the transfer, from the Health Care Fraud and Abuse Control Account under section 1817(k) of the Social Security Act (42 U.S.C. 1395i(k)), to the Centers for Medicare & Medicaid Services Program Management Account, of such sums, provided such sums are fully offset, as the Secretary determines are for necessary administrative expenses associated with carrying out the provisions of and amendments made by this subtitle (other than section 967). Amounts transferred under the preceding sentence shall remain available until expended.

(c) SAVINGS.—Any reduction in outlays under the Medicare program under title XVIII of the Social Security Act under the provisions of, and amendments made by, this subtitle may only be utilized to offset outlays under part A of title XVIII of the Social Security Act.

#### NOTICES OF INTENT TO SUSPEND THE RULES

Mr. COBURN. Mr. President, in accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII for the purposes of proposing and considering amendment no. 4764 to the House Message to accompany H.R. 4853.

Mr. President, in accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII for the purposes of proposing and considering amendment no. 4765 to the House Message to accompany H.R. 4853.

#### ORDER OF PROCEDURE

Mr. DURBIN. Madam President, I ask unanimous consent that on Tuesday, December 14, at 11:30 a.m., Senator BOND be recognized for up to 20 minutes to make his farewell address to the Senate; that at 3:15 p.m., Senator HARKIN be recognized to speak for up to 45 minutes; and that Senator KIRK be recognized at 5 p.m. to make his maiden speech to the Senate; further, that any time utilized be charged under rule XXII.

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

#### ESTABLISHING A PILOT PROGRAM TO ENCOURAGE ENHANCEMENT OF EXPERTISE IN PATENT CASES

Mr. DURBIN. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 628 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 (H.R. 628) to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

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

Mr. DURBIN. I ask unanimous consent that a Leahy amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The amendment (No. 4801), 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. PILOT PROGRAM IN CERTAIN DISTRICT COURTS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a program, in each of the United States district courts designated under subsection (b), under which—

(A) those district judges of that district court who request to hear cases under which 1 or more issues arising under any Act of Congress relating to patents or plant variety protection are required to be decided, are designated by the chief judge of the court to hear those cases;

(B) cases described in subparagraph (A) are randomly assigned to the judges of the district court, regardless of whether the judges are designated under subparagraph (A);

(C) a judge not designated under subparagraph (A) to whom a case is assigned under subparagraph (B) may decline to accept the case; and

(D) a case declined under subparagraph (C) is randomly reassigned to 1 of those judges of the court designated under subparagraph (A).

(2) SENIOR JUDGES.—Senior judges of a district court may be designated under paragraph (1)(A) if at least 1 judge of the court in regular active service is also so designated.

(3) RIGHT TO TRANSFER CASES PRESERVED.—This section shall not be construed to limit the ability of a judge to request the reassignment of or otherwise transfer a case to which the judge is assigned under this section, in accordance with otherwise applicable rules of the court.

(b) DESIGNATION.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Director of the Administrative Office of the United States Courts shall designate not less than 6 United States district courts, in at least 3 different judicial circuits, in which the program established under subsection (a) will be carried out.

(2) CRITERIA FOR DESIGNATIONS.—

(A) IN GENERAL.—The Director shall make designations under paragraph (1) from—

(i) the 15 district courts in which the largest number of patent and plant variety protection cases were filed in the most recent calendar year that has ended; or

(ii) the district courts that have adopted, or certified to the Director the intention to adopt, local rules for patent and plant variety protection cases.

(B) SELECTION OF COURTS.—From amongst the district courts that satisfy the criteria for designation under this subsection, the Director shall select—

(i) 3 district courts that each have at least 10 district judges authorized to be appointed by the President, whether under section 133(a) of title 28, United States Code, or on a temporary basis under any other provision of law, and at least 3 judges of the court have made the request under subsection (a)(1)(A); and

(ii) 3 district courts that each have fewer than 10 district judges authorized to be appointed by the President, whether under section 133(a) of title 28, United States Code, or on a temporary basis under any other provision of law, and at least 2 judges of the court have made the request under subsection (a)(1)(A).

(c) DURATION.—The program established under subsection (a) shall terminate 10 years after the end of the 6-month period described in subsection (b).

(d) APPLICABILITY.—The program established under subsection (a) shall apply in a district court designated under subsection (b) only to cases commenced on or after the date of such designation.

(e) REPORTS TO CONGRESS.—

(1) IN GENERAL.—At the times specified in paragraph (2), the Director of the Administrative Office of the United States Courts, in consultation with the chief judge of each of the district courts designated under subsection (b) and the Director of the Federal Judicial Center, shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the pilot program established under subsection (a). The report shall include—

(A) an analysis of the extent to which the program has succeeded in developing expertise in patent and plant variety protection cases among the district judges of the district courts so designated;

(B) an analysis of the extent to which the program has improved the efficiency of the courts involved by reason of such expertise;

(C) with respect to patent cases handled by the judges designated pursuant to subsection (a)(1)(A) and judges not so designated, a comparison between the 2 groups of judges with respect to—

(i) the rate of reversal by the Court of Appeals for the Federal Circuit, of such cases on the issues of claim construction and substantive patent law; and

(ii) the period of time elapsed from the date on which a case is filed to the date on which trial begins or summary judgment is entered;

(D) a discussion of any evidence indicating that litigants select certain of the judicial districts designated under subsection (b) in an attempt to ensure a given outcome; and

(E) an analysis of whether the pilot program should be extended to other district courts, or should be made permanent and apply to all district courts.

(2) TIMETABLE FOR REPORTS.—The times referred to in paragraph (1) are—

(A) not later than the date that is 5 years and 3 months after the end of the 6-month period described in subsection (b); and

(B) not later than 5 years after the date described in subparagraph (A).

(3) PERIODIC REPORTS.—The Director of the Administrative Office of the United States Courts, in consultation with the chief judge of each of the district courts designated under subsection (b) and the Director of the Federal Judicial Center, shall keep the committees referred to in paragraph (1) informed, on a periodic basis while the pilot program is in effect, with respect to the matters referred to in subparagraphs (A) through (E) of paragraph (1).

The amendment was ordered to be engrossed and the bill read a third time.

The bill (H.R. 628), as amended, was read the third time and passed.

## FEDERAL ACQUISITION INSTITUTE IMPROVEMENT ACT OF 2009

Mr. DURBIN. I ask unanimous consent that the Senate proceed to Calendar No. 679, S. 2902.

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

The legislative clerk read as follows:

A bill (S. 2902) to improve the Federal Acquisition Institute.

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:

### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Federal Acquisition Institute Act of 2010".*

### SEC. 2. ACQUISITION WORKFORCE IMPROVEMENTS.

#### (a) WORKFORCE IMPROVEMENTS.—

(1) IN GENERAL.—Section 855 of the National Defense Authorization Act for Fiscal Year 2008 (41 U.S.C. 433a) is transferred so as to appear after section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433), redesignated as section 37A of the Office of Federal Procurement Policy Act, and amended—

#### (A) in subsection (a)—

(i) by inserting after the first sentence the following: *"The Associate Administrator shall be chosen on the basis of demonstrated knowledge and expertise in acquisition, human capital, and management."*

(ii) by striking *"The Associate Administrator for Acquisition Workforce Programs shall be located in the Federal Acquisition Institute (or its successor)."* and inserting *"The Associate Administrator shall be located in the Office of Federal Procurement Policy."*

(iii) by redesignating paragraph (5) as subparagraph (6);

(iv) in paragraph (4), by striking *"and"* and inserting a semicolon; and

(v) by inserting after paragraph (4) the following new paragraph:

*"(5) implementing workforce programs under subsections (f) through (i) of section 37; and"*; and

(B) by striking subsection (h) and inserting the following new subsections:

#### *"(h) FEDERAL ACQUISITION INSTITUTE.—*

*"(1) IN GENERAL.—There is established a Federal Acquisition Institute (FAI) in order to—*

*"(A) foster and promote the development of a professional acquisition workforce Government-wide;*

*"(B) promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to acquisition by the executive agencies;*

*"(C) collect data and analyze acquisition workforce data from the Office of Personnel Management, the heads of executive agencies, and, through periodic surveys, from individual employees;*

*"(D) periodically analyze acquisition career fields to identify critical competencies, duties, tasks, and related academic prerequisites, skills, and knowledge;*

*"(E) coordinate and assist agencies in identifying and recruiting highly qualified candidates for acquisition fields;*

*"(F) develop instructional materials for acquisition personnel in coordination with private and public acquisition colleges and training facilities;*

*"(G) evaluate the effectiveness of training and career development programs for acquisition personnel;*

*"(H) promote the establishment and utilization of academic programs by colleges and universities in acquisition fields;*

*"(I) facilitate, to the extent requested by agencies, interagency intern and training programs; and*

*"(J) perform other career management or research functions as directed by the Administrator.*

#### *"(2) BUDGET RESOURCES AND AUTHORITY.—*

*"(A) IN GENERAL.—The Director of the Office of Management and Budget and the Administrator of General Services shall provide the Federal Acquisition Institute with the necessary budget resources and authority to support government-wide training standards and certification requirements necessary to enhance the mobility and career opportunities of the Federal acquisition workforce.*

*"(B) ACQUISITION WORKFORCE TRAINING FUND.—Subject to the availability of funds, the Administrator of General Services shall provide the Federal Acquisition Institute with amounts from the acquisition workforce training fund established under section 37(h)(3) sufficient to meet the annual budget for the Federal Acquisition Institute requested by the Administrator for Federal Procurement Policy.*

#### *"(3) FEDERAL ACQUISITION INSTITUTE BOARD OF DIRECTORS.—*

*"(A) REPORTING TO ADMINISTRATOR.—The Federal Acquisition Institute shall report through its Board of Directors directly to the Administrator for Federal Procurement Policy.*

*"(B) COMPOSITION.—The Board shall be composed of not more than 8 individuals from the Federal Government representing a mix of acquisition functional areas, all of whom shall be appointed by the Administrator.*

*"(C) DUTIES.—The Board shall provide general direction to the Federal Acquisition Institute to ensure that the Institute—*

*"(i) meets its statutory requirements;*

*"(ii) meets the needs of the Federal acquisition workforce;*

*"(iii) implements appropriate programs;*

*"(iv) coordinates with appropriate organizations and groups that have an impact on the Federal acquisition workforce;*

*"(v) develops and implements plans to meet future challenges of the Federal acquisition workforce; and*

*"(vi) works closely with the Defense Acquisition University.*

*"(D) RECOMMENDATIONS.—The Board shall make recommendations to the Administrator regarding the development and execution of the annual budget of the Federal Acquisition Institute.*

*"(4) DIRECTOR.—The Director of the Federal Acquisition Institute shall be appointed by, and report directly to, the Administrator.*

*"(i) GOVERNMENT-WIDE TRAINING STANDARDS AND CERTIFICATION.—The Administrator for Federal Procurement Policy, acting through the Federal Acquisition Institute, shall provide and update government-wide training standards and certification requirements, including—*

*"(1) developing and modifying acquisition certification programs;*

*"(2) ensuring quality assurance for agency implementation of government-wide training and certification standards;*

*"(3) analyzing the acquisition training curriculum to ascertain if all certification competencies are covered or if adjustments are necessary;*

*"(4) developing career path information for certified professionals to encourage retention in government positions;*

*"(5) coordinating with the Office of Personnel Management for human capital efforts; and*

*"(6) managing rotation assignments to support opportunities to apply skills included in certification.*

*"(j) ACQUISITION INTERNSHIP AND TRAINING PROGRAMS.—All Federal civilian agency acquisition internship or acquisition training programs shall follow guidelines provided by the Office of Federal Procurement Policy to ensure consistent training standards necessary to develop uniform core competencies throughout the Federal Government.*