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## LEGISLATIVE SESSION

### MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

### CONSTRUCTION CONSENSUS PROCUREMENT IMPROVEMENT ACT OF 2019

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 203, S. 1434.

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

The legislative clerk read as follows:

A bill (S. 1434) to prohibit the use of reverse auctions for design and construction services procurements, and for other purposes.

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

Mr. MCCONNELL. I ask unanimous consent that the Portman 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. 1269) was considered and agreed to as follows:

(Purpose: To modify the definition of reverse auction to cover the awarding of contracts and orders that are based solely on the price obtained through the auction process)

On page 3, line 12, strike “, in whole or in part, based” and insert “is solely based”.

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

S. 1434

*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 “Construction Consensus Procurement Improvement Act of 2019”.

#### SEC. 2. PROHIBITION ON USE OF A REVERSE AUCTION FOR THE AWARD OF A CONTRACT FOR DESIGN AND CONSTRUCTION SERVICES.

(a) FINDING.—Congress finds that, in contrast to a traditional auction in which the buyers bid up the price, sellers bid down the price in a reverse auction.

(b) PROHIBITION.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to prohibit the use of reverse auctions for awarding contracts for design and construction services.

(c) DEFINITIONS.—In this section:

(1) The term “design and construction services” means—

(A) site planning and landscape design;  
 (B) architectural and engineering services (as defined in section 1102 of title 40, United States Code);

(C) interior design;

(D) performance of substantial construction work for facility, infrastructure, and environmental restoration projects;

(E) delivery and supply of construction materials to construction sites; or

(F) construction or substantial alteration of public buildings or public works.

(2) The term “reverse auction” means, with respect to any procurement by an executive agency—

(A) a real-time auction conducted through an electronic medium among 2 or more offerors who compete by submitting bids for a supply or service contract, or a delivery order, task order, or purchase order under the contract, with the ability to submit revised lower bids at any time before the closing of the auction; and

(B) the award of the contract, delivery order, task order, or purchase order to the offeror is solely based on the price obtained through the auction process.

### END PLUSH RETIREMENTS ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 274, S. 439.

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

The legislative clerk read as follows:

A bill (S. 439) to allow Members of Congress to opt out of the Federal Employees Retirement System, and allow Members who opt out of the Federal Employees Retirement System to continue to participate in the Thrift Savings Plan.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Government Affairs.

Mr. MCCONNELL. I ask unanimous consent that the Cardin 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 motions to reconsider be considered made and laid upon the table.

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

The amendment (No. 1270) was agreed to as follows:

(Purpose: To improve the bill)

On page 2, strike lines 1 through 3 and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Members of Congress Pension Opt Out Clarification Act”.

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

S. 439

*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 “Members of Congress Pension Opt Out Clarification Act”.

#### SEC. 2. MAKING FERS OPTIONAL FOR MEMBERS.

(a) IN GENERAL.—

(1) AMENDMENT.—Section 8401(20) of title 5, United States Code, is amended by striking “, and who (in the case)” and all that follows through “2004”.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply with respect to an individual who first serves as a Member of the House of Representatives, including a Delegate or Resident Commissioner to the Congress, on or after the date of enactment of this Act.

(b) CONTINUED PARTICIPATION IN TSP.—

(1) AMENDMENT.—Section 8401(20) of title 5, United States Code, as amended by subsection (a), is further amended—

(A) by striking “term ‘Member’ has” and inserting the following: “term ‘Member’—“(A) has”;

(B) by inserting “, subject to subparagraph (B),” after “except that”;

(C) by adding “and” after the semicolon at the end; and

(D) by adding at the end the following:

“(B) for purposes of subchapter III, has the same meaning as provided in section 2106, without regard to whether the individual elects not to participate in the Federal Employees’ Retirement System.”.

(2) CONFORMING AMENDMENT TO TSP.—Section 8431(a) of title 5, United States Code, is amended by inserting “except as provided in section 8401(20)(B),” after “subchapter.”.

(3) APPLICABILITY.—The amendments made by this subsection shall apply with respect to an individual who makes an election described in section 8401(20) of title 5, United States Code, not to participate in the Federal Employees’ Retirement System before, on, or after the date of enactment of this Act.

### DEPARTMENT OF VETERANS AFFAIRS PROVIDER ACCOUNTABILITY ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be discharged from further consideration of S. 221 and the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

A bill (S. 221) to amend title 38, United States Code, to require the Under Secretary of Health to report major adverse personnel actions involving certain health care employees to the National Practitioner Data Bank and to applicable State licensing boards, and for other purposes.

The PRESIDING OFFICER. Is there objection to proceeding to the measure?

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. MCCONNELL. I ask unanimous consent that the Gardner 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. Is there objection?

Without objection, it is so ordered.

The amendment (No. 1271), 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 “Department of Veterans Affairs Provider Accountability Act”.

#### SEC. 2. ACCOUNTABILITY WITHIN VETERANS HEALTH ADMINISTRATION.

(a) REPORTING MAJOR ADVERSE ACTIONS TO NATIONAL PRACTITIONER DATA BANK AND STATE LICENSING BOARDS.—Section 7461 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(f)(1) Whenever the Under Secretary for Health (or an official designated by the Under Secretary) brings charges based on conduct or performance against a section 7401(1) employee and as a result of those charges a covered major adverse action is taken against the employee, the Under Secretary shall, not later than 30 days after the date on which such covered major adverse action is carried out—

“(A) transmit to the National Practitioner Data Bank of the Department of Health and Human Services and the applicable State licensing board the name of the employee, a description of the covered major adverse action, and a description of the reason for the covered major adverse action; and

“(B) update the VetPro System, or successor system, with a record of the covered major adverse action taken and an indication that information was transmitted under subparagraph (A).

“(2) The Under Secretary for Health—

“(A) shall enroll all 7401(1) employees in a continuous query of their record within the National Practitioner Data Bank; and

“(B) shall develop and implement a mechanism for maintaining and updating the information collected through such continuous query within the VetPro System, or successor system, to facilitate the sharing of such information between Veterans Integrated Service Networks.

“(3) In this subsection, the term ‘covered major adverse action’ means a major adverse action with respect to a section 7401(1) employee that originated from circumstances in which the behavior of the employee so substantially failed to meet generally-accepted standards of clinical practice as to raise reasonable concern for safety of patients.”.

(b) PROHIBITION ON SIGNING SETTLEMENTS WITH CERTAIN CLAUSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of Veterans Affairs may not enter into a settlement agreement relating to an adverse action against a section 7401(1) employee under which the Department of Veterans Affairs would be required to conceal a serious medical error or a lapse in generally-accepted standards of clinical practice.

(2) EXCEPTION.—Paragraph (1) shall not apply to a negative record if the head of the Office of Accountability and Whistleblower Protection of the Department and the Special Counsel (established by section 1211 of title 5, United States Code) jointly certify that the negative record is not legitimate.

(c) TRAINING ON CREDENTIALING AND PRIVILEGING.—The Under Secretary for Health of the Department of Veterans Affairs shall provide to all staff of the Veterans Health Administration who handle hiring, privileging, and credentialing mandatory training on—

(1) all policies of the Veterans Health Administration for credentialing and privileging; and

(2) when and how to report adverse actions to the National Practitioner Data Bank of the Department of Health and Human Services, State licensing boards, and other relevant entities.

(d) SENSE OF CONGRESS ON UPDATES TO THE VHA HANDBOOK.—It is the sense of Congress that—

(1) Congress recognizes that the confusion regarding practices in the Veterans Health Administration for reporting to State licensing boards stems from a lack of guidance in the Veterans Health Administration handbook 1100.18;

(2) Congress strongly recommends that the Secretary of Veterans Affairs update such handbook to ensure that employees of the Veterans Health Administration, officials of the Veterans Integrated Services Networks, and officials of the Department of Veterans Affairs understand and are able to utilize the role of State licensing boards to effectively prevent instances of failed reporting and future patient safety concerns;

(3) Congress recognizes the broad authority of the Veterans Health Administration to report to State licensing boards those employed or separated health care professionals whose behavior and clinical practice so substantially failed to meet generally-accepted standards of clinical practice as to raise reasonable concern for safety of patients and requests that such handbook is updated to reflect appropriate reporting channels to ensure employee understanding of those procedures and authorities; and

(4) in developing the new handbook, the Secretary of Veterans Affairs should consult with—

(A) State licensing boards;

(B) the Centers for Medicare & Medicaid Services;

(C) the National Practitioner Data Bank of the Department of Health and Human Services; and

(D) the exclusive representative of section 7401(1) employees.

(e) SECTION 7401(1) EMPLOYEE DEFINED.—In this section, the term “section 7401(1) employee” has the meaning given that term in section 7461(c)(1) of title 38, United States Code.

The bill (S. 221), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

#### IMPROVING SAFETY AND SECURITY FOR VETERANS ACT OF 2019

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3147, introduced earlier today.

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

The legislative clerk read as follows:

A bill (S. 3147) to require the Secretary of Veterans Affairs to submit to Congress reports on patient safety and quality of care at medical centers of the Department of Veterans Affairs, and for other purposes.

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

Mr. MCCONNELL. I ask unanimous consent that the bill 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 bill (S. 3147) was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 3147

*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 “Improving Safety and Security for Veterans Act of 2019”.

#### SEC. 2. DEPARTMENT OF VETERANS AFFAIRS REPORTS ON PATIENT SAFETY AND QUALITY OF CARE.

(a) REPORT ON PATIENT SAFETY AND QUALITY OF CARE.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report regarding the policies and procedures of the Department relating to patient safety and quality of care and the steps that the Department has taken to make improvements in patient safety and quality of care at medical centers of the Department.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the policies and procedures of the Department and improvements made by the Department with respect to the following:

(i) How often the Department reviews or inspects patient safety at medical centers of the Department.

(ii) What triggers the aggregated review process at medical centers of the Department.

(iii) What controls the Department has in place for controlled and other high-risk substances, including the following:

(I) Access to such substances by staff.

(II) What medications are dispensed via automation.

(III) What systems are in place to ensure proper matching of the correct medication to the correct patient.

(IV) Controls of items such as medication carts and pill bottles and vials.

(V) Monitoring of the dispensing of medication within medical centers of the Department, including monitoring of unauthorized dispensing.

(iv) How the Department monitors contact between patients and employees of the Department, including how employees are monitored and tracked at medical centers of the Department when entering and exiting the room of a patient.

(v) How comprehensively the Department uses video monitoring systems in medical centers of the Department to enhance patient safety, security, and quality of care.

(vi) How the Department tracks and reports deaths at medical centers of the Department at the local level, Veterans Integrated Service Network level, and national level.

(vii) The procedures of the Department to alert local, regional, and Department-wide leadership when there is a statistically abnormal number of deaths at a medical center of the Department, including—

(I) the manner and frequency in which such alerts are made; and

(II) what is included in such an alert, such as the nature of death and where within the medical center the death occurred.

(viii) The use of root cause analyses with respect to patient deaths in medical centers of the Department, including—

(I) what threshold triggers a root cause analysis for a patient death;