To amend the Homeland Security Act of 2002 to establish an Acquisition Review Board in the Department of Homeland Security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Daines (for himself and Mrs. McCaskill) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Homeland Security Act of 2002 to establish an Acquisition Review Board in the Department of Homeland Security, and for other purposes.

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 “DHS Acquisition Review Board Act of 2017”.

SEC. 2. ACQUISITION REVIEW BOARD.

(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. ACQUISITION REVIEW BOARD.

“(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 DECISION AUTHORITY.—The term ‘acquisition decision authority’ means the authority, held by the Secretary acting through the Deputy Secretary or Under Secretary for Management to—

“(A) ensure compliance with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives;

“(B) review (including approving, pausing, modifying, or cancelling) an acquisition program through the life cycle of the program;

“(C) ensure that acquisition program managers have the resources necessary to successfully execute an approved acquisition program;

“(D) ensure good acquisition program management of cost, schedule, risk, and system performance of the acquisition program at issue, including assessing acquisition program baseline breaches and directing any corrective action for such breaches; and
“(E) ensure that acquisition program managers, on an ongoing basis, monitor cost, schedule, and performance against established baselines and use tools to assess risks to an acquisition program at all phases of the life cycle of such program to avoid and mitigate acquisition program baseline breaches.

“(3) ACQUISITION DECISION EVENT.—The term ‘acquisition decision event’, with respect to an acquisition program, means a predetermined point within each of the acquisition phases at which the acquisition decision authority determines whether the acquisition program shall proceed to the next acquisition phase.

“(4) ACQUISITION DECISION MEMORANDUM.—The term ‘acquisition decision memorandum’, with respect to an acquisition, means the official acquisition decision event record that includes a documented record of decisions, exit criteria, and assigned actions for the acquisition, as determined by the person exercising acquisition decision authority for the acquisition.

“(5) 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.

“(6) 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 must be met in order to accomplish the goals of such program.

“(7) 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.

“(8) BOARD.—The term ‘Board’ means the Acquisition Review Board required to be established under subsection (b).

“(9) MAJOR ACQUISITION PROGRAM.—The term ‘major acquisition program’ means a Department acquisition program that is estimated by the Secretary to require an eventual total expenditure of not less than $300,000,000 (based on fiscal year 2017 constant dollars) over the life cycle cost of the acquisition program.

“(b) ESTABLISHMENT OF BOARD.—The Secretary shall establish an Acquisition Review Board to—
“(1) strengthen accountability and uniformity within the Department acquisition review process;
“(2) review major acquisition programs; and
“(3) review the use of best practices.
“(c) COMPOSITION.—
“(1) CHAIRPERSON.—The Under Secretary for Management shall serve as chairperson of the Board.
“(2) OTHER MEMBERS.—The Secretary shall ensure participation by other relevant Department officials, including not fewer than 2 component heads or their designees, as permanent members of the Board.
“(d) MEETINGS.—
“(1) REGULAR MEETINGS.—The Board shall meet regularly for purposes of ensuring all acquisitions processes proceed in a timely fashion to achieve mission readiness.
“(2) OTHER MEETINGS.—The Board shall convene—
“(A) at the discretion of the Secretary;
and
“(B) at any time—
“(i) a major acquisition program—
“(I) requires authorization to proceed from one acquisition decision event to another throughout the acquisition life cycle;

“(II) is in breach of the approved requirements of the major acquisition program; or

“(III) requires additional review, as determined by the Under Secretary for Management; or

“(ii) a non-major acquisition program requires review, as determined by the Under Secretary for Management.

“(e) RESPONSIBILITIES.—The responsibilities of the Board are as follows:

“(1) Determine whether a proposed acquisition has met the requirements of key phases of the acquisition life cycle framework and is able to proceed to the next phase and eventual full production and deployment.

“(2) Oversee whether the business strategy, resources, management, and accountability of a proposed acquisition is executable and is aligned to strategic initiatives.
“(3) Support the person with acquisition decision authority for an acquisition in determining the appropriate direction for the acquisition at key acquisition decision events.

“(4) Conduct systematic reviews of acquisitions to ensure that the acquisitions are progressing in compliance with the approved documents for their current acquisition phases.

“(5) Review the acquisition documents of each major acquisition program, including the acquisition program baseline and documentation reflecting consideration of tradeoffs among cost, schedule, and performance objectives, to ensure the reliability of underlying data.

“(6) Ensure that practices are adopted and implemented to require consideration of trade-offs among cost, schedule, and performance objectives as part of the process for developing requirements for major acquisition programs prior to the initiation of the second acquisition decision event, including, at a minimum, the following practices:

“(A) Department officials responsible for acquisition, budget, and cost estimating functions are provided with the appropriate opportunity to develop estimates and raise cost and
schedule matters before performance objectives are established for capabilities when feasible.

“(B) Full consideration is given to possible trade-offs among cost, schedule, and performance objectives for each alternative.

“(f) ACQUISITION PROGRAM BASELINE REPORT REQUIREMENT.—If the person exercising acquisition decision authority over a major acquisition program approves the major acquisition program to proceed into the planning phase before the major acquisition program has a Department-approved acquisition program baseline—

“(1) the Under Secretary for Management shall create and approve an acquisition program baseline report regarding such approval; and

“(2) the Secretary shall—

“(A) not later than 7 days after the date on which the acquisition decision memorandum is signed, notify in writing the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate of the decision; and

“(B) not later than 60 days after the date on which the acquisition decision memorandum is signed, submit to the Committee on Home-
land Security of the House of Representatives
and the Committee on Homeland Security and
Governmental Affairs of the Senate a report
stating the rationale for such decision and a
plan of action to require an acquisition program
baseline for such program.

“(g) REPORT.—Not later than 1 year after the date
of enactment of this section and every year thereafter
through fiscal year 2022, the Under Secretary for Man-
agement shall provide information to the Committee on
Homeland Security of the House of Representatives and
the Committee on Homeland Security and Governmental
Affairs of the Senate on the activities of the Board for
the prior fiscal year that includes information relating to
the following:

“(1) For each meeting of the Board, any acqui-
sition decision memoranda.

“(2) Results of the systematic reviews con-
ducted under subsection (e)(4).

“(3) Results of acquisition document reviews re-
quired under subsection (e)(5).

“(4) Activities to ensure that practices are
adopted and implemented throughout the Depart-
ment under subsection (e)(6).”.
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1  (b) CLERICAL AMENDMENT.—The table of contents
2  in section 1(b) of the Homeland Security Act of 2002 (6
3  U.S.C. 101 et seq.) is amended by inserting after the item
4  relating to section 835 the following:

"Sec. 836. Acquisition Review Board.".