

the Senate's action; and that the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Jeffrey Prescott, of the District of Columbia, to be U.S. Representative to the United Nations Agencies for Food and Agriculture, with the rank of Ambassador.

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

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Prescott nomination?

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

FEDERAL AGENCY PERFORMANCE ACT OF 2023

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 46, S. 709.

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

The senior assistant legislative clerk read as follows:

A bill (S. 709) to improve performance and accountability in the Federal Government, 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 printed in italic.)

S. 709

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 Agency Performance Act of 2023".

SEC. 2. ESTABLISHMENT OF STRATEGIC REVIEWS AND REPORTING.

(a) STRATEGIC REVIEWS.—

(1) IN GENERAL.—Section 1121 of title 31, United States Code, is amended—

(A) by striking the section heading and inserting "Progress reviews and use of performance information"; and

(B) by adding at the end the following:

"(c) AGENCY REVIEWS OF PROGRESS TOWARDS STRATEGIC GOALS AND OBJECTIVES.—

"(1) COVERED GOAL DEFINED.—In this subsection, the term 'covered goal' means a goal or objective established in the strategic plan of the agency under section 306(a) of title 5.

"(2) REVIEW.—Not less frequently than annually and consistent with guidance issued by the Director of the Office of Management and Budget, the head and Chief Operating Officer of each agency, shall—

"(A) for each covered goal, review with the appropriate agency official responsible for the covered goal—

"(i) the progress achieved toward the covered goal—

"(I) during the most recent fiscal year; or

"(II) from recent sources of evidence available at the time of the review; and

"(ii) the likelihood that the agency will achieve the covered goal;

"(B) coordinate with relevant personnel within and outside the agency who contribute to the accomplishment of each covered goal;

"(C) assess progress toward each covered goal by reviewing performance information and other types of evidence relating to each covered goal, such as program evaluations and statistical data;

"(D) identify whether additional evidence is necessary to better assess progress toward each covered goal, and prioritize the development of the evidence described in subparagraph (C), such as through the plans required under section 312 of title 5, if applicable;

"(E) assess whether relevant organizations, program activities, regulations, policies, and other activities contribute as planned to each covered goal;

"(F) as appropriate, leverage the assessment performed under subparagraph (E) as part of the portfolio reviews required under section 503(c)(1)(G);

"(G) identify any risks or impediments that would reduce or otherwise decrease the likelihood that the agency will achieve the covered goal; and

"(H) for each covered goal at greatest risk of not being achieved, identify prospects and strategies for performance improvement, including any necessary changes to program activities, regulations, policies, or other activities of the agency.

"(3) SUPPORT.—In fulfilling the requirements of paragraph (2), the head and Chief Operating Officer of each agency shall be supported by—

"(A) the Performance Improvement Officer of the agency;

"(B) as appropriate, the Chief Data Officer, Evaluation Officer, Program Management Improvement Officer, and Statistical Official of the agency; and

"(C) any other senior agency official designated by the head of the agency, the sustained involvement of whom may help the agency increase the likelihood of achieving 1 or more covered goals."

(2) CONFORMING AMENDMENT.—The table of sections for Chapter 11 of title 31, United States Code, is amended by striking the item relating to section 1121 and inserting the following:

"1121. Progress reviews and use of performance information."

(b) SUMMARY REQUIRED.—Section 1116 of title 31, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (6)(E), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting "and"; and

(C) by adding at the end the following:

"(8) include a summary of the findings of the review of the agency under section 1121(c)."; and

(2) by striking subsections (f) through (i).

SEC. 3. REVISIONS TO THE FEDERAL PERFORMANCE WEBSITE.

Section 1122 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (C)—

(I) by inserting "required to be included on the single website under subparagraph (A) and the information"; before "in the program inventory"; and

(II) by striking "and" at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting "and"; and

(iii) by adding at the end the following:

"(E) ensure that the website described in subparagraph (A) conforms with the requirements for websites under section 3(a) of the

21st Century Integrated Digital Experience Act (44 U.S.C. 3501 note)."; and

(B) in paragraph (4), by striking subparagraph (A) and inserting the following:

"(A) archive and preserve—

"(i) the information included in the program inventory required under paragraph (2)(B), including the information described in paragraph (3), after the end of the period during which that information is made available; and

"(ii) the information included in the single website under paragraph (2)(A) in accordance with subsections (b) and (c) after the end of the period during which such information is made available on the website; and";

(2) in subsection (b), by striking paragraph (6) and inserting the following:

"(6) the results achieved toward the agency priority goals established under section 1120(b)—

"(A) during the most recent quarter and overall trend data for each quarter compared to the planned level of performance; and

"(B) at the end of the 2-year agency priority goal period compared to the overall planned level of performance"; and

(3) in subsection (c), by striking paragraph (5) and inserting the following:

"(5) the results achieved toward the priority goals developed under section 1120(a)(1)—

"(A) during the most recent quarter and overall trend data for each quarter compared to the planned level of performance; and

"(B) at the end of the 4-year Federal Government priority goal period compared to the overall planned level of performance";.

SEC. 4. FEDERAL GOVERNMENT PRIORITY GOALS.

Section 1120(a)(2) of title 31, United States Code, is amended by striking the second sentence and inserting "Such goals shall—

"(A) be updated and revised not less frequently than during the first year of each Presidential term;

"(B) be made publicly available not less frequently than concurrently with the submission of the budget of the United States Government under section 1105(a) made during the first full fiscal year following any year during which a term of the President commences under section 101 of title 3;

"(C) include plans for the successful achievement of each goal within each single Presidential term; and

"(D) explicitly cite to any specific contents of the budget described in subparagraph (B) that support the achievement of each goal."

SEC. 5. FEDERAL GOVERNMENT PRIORITY GOAL CO-LEADERS.

Section 1115(a) of title 31, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) For each Federal Government performance goal, identify, as appropriate, not fewer than 2 lead Government officials who shall jointly be responsible for coordinating the efforts to achieve the goal, of whom—

"(A) not less than 1 shall be from the Executive Office of the President; and

"(B) not less than 1 shall be from an agency identified as contributing to the Federal Government performance goal described in paragraph (2).";.

SEC. 6. ESTABLISHMENT OF DEPUTY PERFORMANCE IMPROVEMENT OFFICERS.

Section 1124(a) of title 31, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) ESTABLISHMENT.—At each agency, the head of the agency, in consultation with the Chief Operating Officer of the agency, shall designate—

“(A) a Performance Improvement Officer, who shall be a senior executive of the agency; and

“(B) if the Performance Improvement Officer designated under subparagraph (A) is not a career appointee of the Senior Executive Service, a Deputy Performance Improvement Officer, who shall be a career appointee of the Senior Executive Service.”; and

(2) by adding at the end the following:

“(3) DEPUTY PERFORMANCE IMPROVEMENT OFFICER.—A Deputy Performance Improvement Officer designated under paragraph (1)(B) shall support the Performance Improvement Officer in carrying out the functions of the Performance Improvement Officer under paragraph (2).”

SEC. 7. REPEAL OF OUTDATED PILOT PROJECTS.

(a) IN GENERAL.—Chapter 11 of title 31, United States Code, is amended by striking sections 1118 and 1119.

(b) CONFORMING AMENDMENT.—Section 9704 of title 31, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection “(d)” as subsection “(c)”.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 31, United States Code, is amended by striking the items relating to sections 1118 and 1119.

SEC. 8. CLARIFYING AMENDMENTS.

(a) CLARIFICATION OF REQUIREMENT TO CITE TO EVIDENCE-BUILDING ACTIVITIES IN STRATEGIC PLANS.—Section 306(a) of title 5, United States Code, is amended—

(1) in paragraph (8) by inserting “, as applicable” after “section 312”; and

(2) in paragraph (9), in the matter preceding subparagraph (A), by inserting “with respect to the head of an agency required to develop a plan described in subsection (a) or (b) of section 312,” before “an assessment”.

(b) CLARIFICATION OF TIMING OF AGENCY PERFORMANCE REPORT.—Section 1116(b)(1) of title 31, United States Code, is amended by striking “shall occur no less than 150 days after” and inserting “shall occur not later than 150 days after”.

SEC. 9. GAO REPORT.

Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Accountability of the House of Representatives a report on the effectiveness of this Act and the amendments made by this Act.

Mr. SCHUMER. I further ask that the committee-reported amendment be 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 with no intervening action or debate.

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

The committee-reported amendment was agreed to.

The bill (S. 709), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 709

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 Agency Performance Act of 2023”.

SEC. 2. ESTABLISHMENT OF STRATEGIC REVIEWS AND REPORTING.

(a) STRATEGIC REVIEWS.—

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(B) by adding at the end the following:

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“(1) COVERED GOAL DEFINED.—In this subsection, the term ‘covered goal’ means a goal or objective established in the strategic plan of the agency under section 306(a) of title 5.

“(2) REVIEW.—Not less frequently than annually and consistent with guidance issued by the Director of the Office of Management and Budget, the head and Chief Operating Officer of each agency, shall—

“(A) for each covered goal, review with the appropriate agency official responsible for the covered goal—

“(i) the progress achieved toward the covered goal—

“(I) during the most recent fiscal year; or

“(II) from recent sources of evidence available at the time of the review; and

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“(B) coordinate with relevant personnel within and outside the agency who contribute to the accomplishment of each covered goal;

“(C) assess progress toward each covered goal by reviewing performance information and other types of evidence relating to each covered goal, such as program evaluations and statistical data;

“(D) identify whether additional evidence is necessary to better assess progress toward each covered goal, and prioritize the development of the evidence described in subparagraph (C), such as through the plans required under section 312 of title 5, if applicable;

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“(F) as appropriate, leverage the assessment performed under subparagraph (E) as part of the portfolio reviews required under section 503(c)(1)(G);

“(G) identify any risks or impediments that would reduce or otherwise decrease the likelihood that the agency will achieve the covered goal; and

“(H) for each covered goal at greatest risk of not being achieved, identify prospects and strategies for performance improvement, including any necessary changes to program activities, regulations, policies, or other activities of the agency.

“(3) SUPPORT.—In fulfilling the requirements of paragraph (2), the head and Chief Operating Officer of each agency shall be supported by—

“(A) the Performance Improvement Officer of the agency;

“(B) as appropriate, the Chief Data Officer, Evaluation Officer, Program Management Improvement Officer, and Statistical Official of the agency; and

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(A) in paragraph (6)(E), by striking “and” at the end;

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(C) by adding at the end the following:

“(8) include a summary of the findings of the review of the agency under section 1121(c).”; and

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(I) by inserting “required to be included on the single website under subparagraph (A) and the information”; before “in the program inventory”; and

(II) by striking “and” at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(E) ensure that the website described in subparagraph (A) conforms with the requirements for websites under section 3(a) of the 21st Century Integrated Digital Experience Act (44 U.S.C. 3501 note).”; and

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“(A) archive and preserve—

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(2) in subsection (b), by striking paragraph (6) and inserting the following:

“(6) the results achieved toward the agency priority goals established under section 1120(b)—

“(A) during the most recent quarter and overall trend data for each quarter compared to the planned level of performance; and

“(B) at the end of the 2-year agency priority goal period compared to the overall planned level of performance.”; and

(3) in subsection (c), by striking paragraph (5) and inserting the following:

“(5) the results achieved toward the priority goals developed under section 1120(a)(1)—

“(A) during the most recent quarter and overall trend data for each quarter compared to the planned level of performance; and

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Section 1120(a)(2) of title 31, United States Code, is amended by striking the second sentence and inserting “Such goals shall—

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“(A) a Performance Improvement Officer, who shall be a senior executive of the agency; and

“(B) if the Performance Improvement Officer designated under subparagraph (A) is not a career appointee of the Senior Executive Service, a Deputy Performance Improvement Officer, who shall be a career appointee of the Senior Executive Service.”; and

(2) by adding at the end the following:

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(2) in paragraph (9), in the matter preceding subparagraph (A), by inserting “with respect to the head of an agency required to develop a plan described in subsection (a) or (b) of section 312,” before “an assessment”.

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SEC. 9. GAO REPORT.

Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Accountability of the House of Representatives a report on the effectiveness of this Act and the amendments made by this Act.

RESOLUTIONS SUBMITTED TODAY

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the en bloc consideration of the following Senate resolutions: S.

Res. 548, S. Res. 549, S. Res. 550, S. Res. 551, and S. Res. 552.

There being no objection, the Senate proceeded to consider the resolutions en bloc.

Mr. SCHUMER. Mr. President, this resolution concerns a request for evidence in a criminal action pending in State district court in Lansing, MI. In this case, 15 defendants are charged with multiple felony counts relating to a certificate of votes for President and Vice President submitted by an unofficial, alternate slate of electors from Michigan in connection with the 2020 Presidential election. The first preliminary hearing, which began in December 2023, is set to resume on February 13, 2024, with additional preliminary hearing and trial dates to be scheduled thereafter.

The prosecution in this case has requested testimony from Daniel Schwager, formerly counsel to the Secretary of the Senate, concerning his knowledge and observations of how electoral ballots are received and processed in the Senate, and the process and constitutional and legal bases for Congress's counting of the Electoral College votes. Senate Secretary Berry would like to cooperate with this request by providing relevant testimony at the preliminary hearings and trial from Mr. Schwager.

In keeping with the rules and practices of the Senate, the enclosed resolution would authorize the production of relevant testimony from Mr. Schwager, with representation by the Senate legal counsel.

Mr. SCHUMER. I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be considered made and laid upon the table, all en bloc.

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

The resolutions were agreed to.

The preambles were agreed to.

(The resolutions, with their preambles, are printed in today's RECORD (legislative day of Wednesday, February 7, 2024) under “Submitted Resolutions.”)

HONORING THE LIFE OF JEAN A. CARNAHAN, FORMER SENATOR FOR THE STATE OF MISSOURI

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 553, which is at the desk.

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

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 553) honoring the life of Jean A. Carnahan, former Senator for the State of Missouri.

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

Mr. SCHUMER. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and that the

motions 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 resolution (S. Res. 553) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD (legislative day of Wednesday, February 7, 2024) under “Submitted Resolutions.”)

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to the provisions of S. Res. 64, adopted March 5, 2013, appoints the following Senators as members of the Senate National Security Working Group for the 118th Congress: JACK REED of Rhode Island, Administrative Co-Chair; ROBERT MENENDEZ of New Jersey, Co-Chair; RICHARD J. DURBIN of Illinois, Co-Chair; BENJAMIN L. CARDIN of Maryland, Co-Chair; ROBERT P. CASEY, Jr. of Pennsylvania; TAMMY DUCKWORTH of Illinois; KYRSTEN SINEMA of Arizona; RAPHAEL G. WARNOCK of Georgia; and ALEX PADILLA of California.

MORNING BUSINESS

ARMS SALES NOTIFICATION

Mr. CARDIN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of certain proposed arms sales as defined by that statute. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Senate Foreign Relations Committee.

In keeping with the committee's intention to see that relevant information is available to the full Senate, I ask unanimous consent to have printed in the RECORD the notifications which have been received. If the cover letter references a classified annex, then such an annex is available to all Senators in the office of the Foreign Relations Committee, room SD-423.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY
COOPERATION AGENCY,
Washington, DC.

Hon. BENJAMIN L. CARDIN,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-06, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Poland for defense articles and services estimated to cost \$1.2 billion. We will issue a news release to notify the public of