

118TH CONGRESS  
1ST SESSION

# S. 2422

To amend title 38, United States Code, to establish the Acquisition Review Board of the Department of Veterans Affairs and to establish the Director of Cost Assessment and Program Evaluation in the Department, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 20, 2023

Mr. TESTER (for himself and Mr. MORAN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to establish the Acquisition Review Board of the Department of Veterans Affairs and to establish the Director of Cost Assessment and Program Evaluation in the Department, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Acquisition Reform  
5 and Cost Assessment Act of 2023” or “ARCA Act of  
6 2023”.

1 **SEC. 2. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION**  
2 **REVIEW, COST ASSESSMENT, AND PROGRAM**  
3 **EVALUATION.**

4 (a) IN GENERAL.—Chapter 81 of title 38, United  
5 States Code, is amended by inserting after subchapter VI  
6 the following new subchapter:

7 “SUBCHAPTER VII—ACQUISITION REVIEW,  
8 COST ASSESSMENT, AND PROGRAM EVAL-  
9 UATION

10 **“§ 8181. Definitions**

11 “In this subchapter:

12 “(1) The term ‘major acquisition program’  
13 means a program of the Department to acquire  
14 property, assets, supplies, services, or a combination  
15 thereof, with an estimated life-cycle cost of  
16 \$250,000,000 or more, as determined by the Sec-  
17 retary.

18 “(2) The term ‘non-major acquisition program’  
19 means a program of the Department to acquire  
20 property, assets, supplies, services, or a combination  
21 thereof, with an estimated life-cycle cost of less than  
22 \$250,000,000, as determined by the Secretary.

23 **“§ 8182. Acquisition Review Board**

24 “(a) IN GENERAL.—There is established in the De-  
25 partment a board, to be known as the ‘Acquisition Review

1 Board’, to support the Secretary in managing acquisition  
2 programs under the laws administered by the Secretary.

3 “(b) COMPOSITION.—(1) The Deputy Secretary of  
4 Veterans Affairs shall serve as Chair of the Acquisition  
5 Review Board.

6 “(2) The Deputy Secretary may designate an em-  
7 ployee of the Department to oversee the operations of the  
8 Acquisition Review Board.

9 “(3) The Deputy Secretary shall ensure participation  
10 by other relevant Department officials with responsibilities  
11 relating to acquisitions as permanent members of the Ac-  
12 quisition Review Board, including the following:

13 “(A) The Chief Acquisition Officer.

14 “(B) The Chief Financial Officer.

15 “(C) The Chief Veterans Experience Officer.

16 “(D) The Chief Information Officer.

17 “(E) The Assistant Secretary for Enterprise In-  
18 tegration.

19 “(F) Other relevant senior Department offi-  
20 cials, as the Deputy Secretary determines appro-  
21 priate, including such officials from the Veterans  
22 Health Administration, the Veterans Benefits Ad-  
23 ministration, and the National Cemetery Adminis-  
24 tration.

1       “(c) MEETINGS.—The Acquisition Review Board  
2 shall convene—

3               “(1) at the discretion of the Deputy Secretary;

4       and

5               “(2) not later than 45 days after any date on  
6 which—

7                       “(A) a major acquisition program—

8                               “(i) is proposed to the Secretary;

9                               “(ii) is approved by the Secretary to  
10 commence;

11                               “(iii) concludes an acquisition phase;

12                               “(iv) is not in compliance with re-  
13 quirements relating to cost, schedule, or  
14 performance under the applicable program  
15 baseline described in section 8183(b)(1) of  
16 this title, as determined by the Deputy  
17 Secretary; or

18                               “(v) requires additional review, as de-  
19 termined by the Deputy Secretary; and

20                       “(B) a non-major acquisition program re-  
21 quires review, as determined by the Deputy  
22 Secretary.

23       “(d) RESPONSIBILITIES.—The Acquisition Review  
24 Board shall be responsible for—

1           “(1) with respect to a major acquisition pro-  
2           gram proposed to the Secretary, determining wheth-  
3           er the business strategy, budget, management, and  
4           organization of such program is feasible and in ac-  
5           cordance with the mission and strategic goals of the  
6           Department;

7           “(2) with respect to a major acquisition pro-  
8           gram approved by the Secretary to commence, deter-  
9           mining the appropriate acquisition category for such  
10          program;

11          “(3) with respect to a major acquisition pro-  
12          gram that has concluded an acquisition phase—

13                 “(A) authorizing the manager of such pro-  
14                 gram appointed pursuant to section 8183(a) of  
15                 this title to advance such program to a subse-  
16                 quent acquisition phase if the relevant require-  
17                 ments in such applicable program baseline have  
18                 been satisfied; and

19                 “(B) advising such manager on appro-  
20                 priate corrective action if such requirements  
21                 have not been satisfied; and

22          “(4) reviewing, on a continuous basis, each  
23          major acquisition program to ensure each such pro-  
24          gram is in compliance with—

1           “(A) the relevant requirements in such ap-  
2           plicable program baseline; and

3           “(B) the certification requirement under  
4           subsection (c) of such section.

5           “(e) ACQUISITION DECISION MEMORANDUM.—Not  
6 later than 30 days after any date on which the Deputy  
7 Secretary convenes a meeting pursuant to subsection (c),  
8 the Deputy Secretary shall submit to the Secretary and  
9 the Committees on Veterans’ Affairs of the Senate and  
10 the Committee on Veterans’ Affairs of the House of Rep-  
11 resentatives an acquisition decision memorandum that in-  
12 cludes—

13           “(1) a summary of—

14           “(A) the purpose of such meeting;

15           “(B) any matter discussed during such  
16 meeting;

17           “(C) any decision of the Acquisition Re-  
18 view Board made during such meeting, includ-  
19 ing any such decision to allow a major acquisi-  
20 tion program to deviate from the relevant re-  
21 quirements in such applicable program baseline;  
22 and

23           “(D) any matters assigned for further dis-  
24 cussion during a subsequent meeting of the Ac-  
25 quisition Review Board; and

1           “(2) a certification by the Deputy Secretary  
2           that the contents of such memorandum are accurate.

3   **“§ 8183. Major acquisition program managers**

4           “(a) APPOINTMENTS.—Not later than 30 days after  
5 any date on which the Secretary approves a major acquisi-  
6 tion program to commence, the Deputy Secretary shall ap-  
7 point a manager to be responsible for administering such  
8 program.

9           “(b) DUTIES.—Each manager appointed pursuant to  
10 subsection (a) shall be responsible for, with respect to the  
11 applicable major acquisition program—

12           “(1) developing, in coordination with the Acqui-  
13 sition Review Board, a plan to administer such pro-  
14 gram, to be known as the ‘program baseline’, that  
15 includes—

16           “(A) a description of each acquisition  
17 phase of such program;

18           “(B) for each such acquisition phase, re-  
19 quirements for advancing such program to a  
20 subsequent acquisition phase; and

21           “(C) estimates of the cost, schedule, and  
22 performance of such program that account for  
23 the entire life cycle of such program;

24           “(2) ensuring such program is in compliance  
25 with such requirements;

1           “(3) securing funding necessary to satisfy such  
2 requirements;

3           “(4) adopting standardized processes with es-  
4 tablished success to support the progress of such  
5 program, including—

6                   “(A) milestones;

7                   “(B) exit criteria; and

8                   “(C) specific accomplishments;

9           “(5) to the extent practicable, ensuring that  
10 personnel of the Department responsible for esti-  
11 mating the budget and cost of such program are  
12 provided with an opportunity to raise concerns relat-  
13 ing to such budget and cost prior to the establish-  
14 ment of the program baseline under paragraph (1);

15           “(6) on a continuous basis, assessing and man-  
16 aging risks to satisfying the requirements of such  
17 program baseline relating to cost and schedule;

18           “(7) establishing a workforce for such program  
19 that is qualified and sufficient to perform the nec-  
20 essary functions of such program; and

21           “(8) ensuring such program has adequate tech-  
22 nology and production capacity prior to commencing  
23 an acquisition phase of such program related to  
24 manufacturing, if applicable.



1       “(c) CONSIDERATION OF ALTERNATE REQUIRE-  
2 MENTS.—Not later than 90 days after any date on which  
3 a manager appointed pursuant to subsection (a) estab-  
4 lishes a program baseline described in subsection (b)(1),  
5 such manager shall submit to the Chair of the Acquisition  
6 Review Board a certification that such manager consid-  
7 ered establishing alternate requirements in such program  
8 baseline relating to the cost, schedule, and performance  
9 of each acquisition phase of such program prior to estab-  
10 lishing such program baseline.

11       “(d) ACQUISITION REVIEW BOARD AUTHORIZATION  
12 REQUIRED.—(1) Not later than 30 days after any date  
13 on which a major acquisition program concludes an acqui-  
14 sition phase, the manager of such program appointed pur-  
15 suant to subsection (a) shall notify the Acquisition Review  
16 Board under section 8182 of this title.

17       “(2) Such manager may not advance such program  
18 to a subsequent acquisition phase without the authoriza-  
19 tion of such Acquisition Review Board pursuant to sub-  
20 section (d)(3) of such section.

21 **“§ 8184. Cost assessment and program evaluation**

22       “(a) DIRECTOR OF COST ASSESSMENT AND PRO-  
23 GRAM EVALUATION.—There is established a Director of  
24 Cost Assessment and Program Evaluation.

1           “(b)(1) INDEPENDENT ADVICE TO SECRETARY OF  
2 VETERANS AFFAIRS.—The Director of Cost Assessment  
3 and Program Evaluation is the principal advisor to the  
4 Secretary and other senior officials of the Department,  
5 and shall provide independent analysis and advice to such  
6 officials, on the following matters:

7           “(A) Matters assigned to the Director pursuant  
8 to this section.

9           “(B) Matters assigned to the Director by the  
10 Secretary pursuant to this section and to section  
11 303 of this title.

12          “(2) The Director may communicate views on mat-  
13 ters within the responsibility of the Director directly to  
14 the Secretary and the Deputy Secretary of Veterans Af-  
15 fairs without obtaining the approval or concurrence of any  
16 other official within the Department.

17          “(c) DEPUTY DIRECTORS.—There are two Deputy  
18 Directors within the Office of the Director of Cost Assess-  
19 ment and Program Evaluation, as follows:

20           “(1) The Deputy Director for Cost Assessment.

21           “(2) The Deputy Director for Program Evalua-  
22 tion.

23          “(d) RESPONSIBILITIES.—The Director of Cost As-  
24 sessment and Program Evaluation shall serve as the prin-

1 cipal official within the senior management of the Depart-  
2 ment for the following:

3           “(1) Cost estimation and cost analysis for ac-  
4 quisition programs of the Department.

5           “(2) Analysis and advice on matters relating to  
6 the planning and programming phases of the Plan-  
7 ning, Programming, Budgeting, and Execution sys-  
8 tem, and the preparation of materials and guidance  
9 for such system, as directed by the Secretary, work-  
10 ing in coordination with the Assistant Secretary for  
11 Management and the Chief Financial Officer of the  
12 Department.

13           “(3) Analysis and advice for resource discus-  
14 sions relating to requirements under consideration in  
15 the Veterans Health Administration, the Veterans  
16 Benefits Administration, or the National Cemetery  
17 Administration.

18           “(4) Formulation of study guidance for anal-  
19 yses of alternatives for major acquisition programs  
20 and performance of such analyses, as directed by the  
21 Secretary.

22           “(5) Review, analysis, and evaluation of pro-  
23 grams for executing approved strategies and policies,  
24 ensuring that information on programs is presented  
25 accurately and completely, and assessing the effect

1 of spending by the Department on the United States  
2 economy.

3 “(6) Assessments of alternative plans, pro-  
4 grams, and policies with respect to the acquisition  
5 programs of the Department.

6 “(7) Leading the development of improved ana-  
7 lytical skills and competencies within the cost assess-  
8 ment and program evaluation workforce of the De-  
9 partment and improved tools, data, and methods to  
10 promote performance, economy, and efficiency in  
11 analyzing Department planning and the allocation of  
12 Department resources.

13 “(e) INDEPENDENT COST ESTIMATION AND COST  
14 ANALYSIS.—The Director of Cost Assessment and Pro-  
15 gram Evaluation shall ensure that the cost estimation and  
16 cost analysis processes of the Department provide accu-  
17 rate information and realistic estimates of cost for the ac-  
18 quisition programs of the Department. In carrying out  
19 that responsibility, the Director shall—

20 “(1) prescribe, by authority of the Secretary,  
21 policies and procedures for the conduct of cost esti-  
22 mation and cost analysis for the acquisition pro-  
23 grams of the Department;

24 “(2) provide guidance to and consult with the  
25 Secretary, the Chief Acquisition Officer, the Assist-

1 ant Secretary for Management, the Chief Financial  
2 Officer of the Department, the Under Secretary for  
3 Health, the Under Secretary for Benefits, and the  
4 Under Secretary for Memorial Affairs with respect  
5 to cost estimation in the Department in general and  
6 with respect to specific cost estimates and cost anal-  
7 yses to be conducted in connection with a major ac-  
8 quisition program;

9 “(3) issue guidance relating to the proper selec-  
10 tion of confidence levels in cost estimates generally,  
11 and specifically, for the proper selection of con-  
12 fidence levels in cost estimates for major acquisition  
13 programs and major automated information system  
14 programs;

15 “(4) issue guidance relating to full consider-  
16 ation of life-cycle management and sustainability  
17 costs in major acquisition programs and major auto-  
18 mated information system programs;

19 “(5) review all cost estimates and cost analyses  
20 conducted in connection with major acquisition pro-  
21 grams and major automated information system pro-  
22 grams;

23 “(6) conduct independent cost estimates and  
24 cost analyses for major acquisition programs and  
25 major automated information system programs for

1 which the Chief Acquisition Officer is the Milestone  
2 Decision Authority—

3 “(A) in advance of—

4 “(i) any certification under this title;

5 and

6 “(ii) any decision to enter into low-  
7 rate initial production or full-rate produc-  
8 tion; and

9 “(B) at any other time considered appro-  
10 priate by the Director or upon the request of  
11 the Chief Acquisition Officer; and

12 “(7) periodically assess and update the cost in-  
13 dexes used by the Department to ensure that such  
14 indexes have a sound basis and meet the Depart-  
15 ment’s needs for realistic cost estimation.

16 “(f) REVIEW OF COST ESTIMATES, COST ANALYSES,  
17 AND RECORDS OF THE DEPARTMENT.—The Secretary  
18 shall ensure that the Director—

19 “(1) promptly receives the results of all cost es-  
20 timates and cost analyses conducted by the Veterans  
21 Benefits Administration, the Veterans Health Ad-  
22 ministration, or the National Cemetery Administra-  
23 tion and all studies conducted by the Administration  
24 in connection with such cost estimates and cost anal-  
25 yses for major acquisition programs and major auto-

1 mated information system programs of the Adminis-  
2 trations; and

3 “(2) has timely access to any records and data  
4 in the Department (including the records and data  
5 of each Administration) that the Director considers  
6 necessary to review in order to carry out any duties  
7 under this section.

8 “(g) PARTICIPATION, CONCURRENCE, AND AP-  
9 PROVAL IN COST ESTIMATION.—The Director may—

10 “(1) participate in the discussion of any dis-  
11 crepancies between an independent cost estimate and  
12 the cost estimate assessments of the Veterans Bene-  
13 fits Administration, the Veterans Health Adminis-  
14 tration, and the National Cemetery Administration  
15 for a major acquisition program or major automated  
16 information system program of the Department;

17 “(2) comment on deficiencies in the method-  
18 ology or execution of any cost estimate or cost anal-  
19 ysis developed by the Veterans Benefits Administra-  
20 tion, the Veterans Health Administration, or the Na-  
21 tional Cemetery Administration for a major acquisi-  
22 tion program or major automated information sys-  
23 tem program;

24 “(3) concur in the choice of a cost estimate  
25 within the baseline description or any other cost esti-

1       mate (including the confidence level for any such  
2       cost estimate) for use at any event specified in sub-  
3       section (e)(6); and

4               “(4) participate in the consideration of any de-  
5       cision to request authorization of a multi-year pro-  
6       curement contract for a major acquisition program.

7       “(h) ANNUAL REPORT ON COST ASSESSMENT AC-  
8       TIVITIES.—(1) Each year, not later than 10 days after the  
9       transmittal to Congress of the budget of the President for  
10      a fiscal year pursuant to section 1105 of title 31, the Di-  
11      rector shall submit to the Secretary, the Chief Acquisition  
12      Officer of the Department, the Assistant Secretary for  
13      Management, the Chief Financial Officer of the Depart-  
14      ment, the Committee on Veterans’ Affairs of the Senate  
15      and the Committee on Veterans’ Affairs of the House of  
16      Representatives an annual report on the cost estimation  
17      and cost analysis activities of the Department carried out  
18      during the previous year.

19              “(2) Each report submitted pursuant to paragraph  
20      (1) shall include, for the period covered by the report, the  
21      following:

22                      “(A) A summary of the cost estimation and  
23      cost analysis activities of the Department.

24                      “(B) Assessments of the following:



1           “(i) The progress of the Department in im-  
2           proving the accuracy of its cost estimates and  
3           analyses.

4           “(ii) The extent to which each of the Vet-  
5           erans Benefits Administration, the Veterans  
6           Health Administration, and the National Ceme-  
7           tery Administration have complied with policies,  
8           procedures, and guidance issued by the Director  
9           with regard to the preparation of cost estimates  
10          for major acquisition programs and major auto-  
11          mated information systems.

12          “(iii) The overall quality of cost estimates  
13          prepared by each of the Administrations for  
14          major acquisition programs and major auto-  
15          mated information system programs.

16          “(iv) Any consistent differences in method-  
17          ology or approach among the cost estimates  
18          prepared by the Administrations and the Direc-  
19          tor.

20          “(3)(A) The Director shall ensure that a report sub-  
21          mitted to paragraph (1) does not include any information,  
22          such as proprietary or source selection sensitive informa-  
23          tion, that could undermine the integrity of the acquisition  
24          process.

1 “(B) The report submitted pursuant to paragraph (1)  
 2 to the committees described in such paragraph shall be  
 3 posted on an internet website of the Department that is  
 4 available to the public.

5 “(4) The Secretary may comment on any report of  
 6 the Director submitted to the committees described in  
 7 paragraph (1) pursuant to such paragraph.

8 “(i) STAFF.—The Secretary shall ensure that the Di-  
 9 rector has sufficient professional staff to enable the Direc-  
 10 tor to carry out the duties and responsibilities of the Di-  
 11 rector under this section.”.

12 (b) CLERICAL AMENDMENT.—The table of sections  
 13 at the beginning of such chapter is amended by adding  
 14 at the end the following:

“SUBCHAPTER VII—ACQUISITION REVIEW, COST ASSESSMENT, AND PROGRAM  
 EVALUATION

“Sec. 8181. Definitions.

“Sec. 8182. Acquisition Review Board.

“Sec. 8183. Major acquisition program managers.

“Sec. 8184. Cost assessment and program evaluation.”.

15 (c) REPORT ON MONITORING OF OPERATING AND  
 16 SUPPORT COSTS FOR MAJOR ACQUISITION PROGRAMS.—

17 (1) REPORT TO SECRETARY OF VETERANS AF-  
 18 FAIRS.—Not later than one year after the date of  
 19 the enactment of this Act, the Director of Cost As-  
 20 sessment and Program Evaluation established pur-  
 21 suant to section 8184 of title 38, United States  
 22 Code, as added by subsection (a), shall—

1 (A) review systems and methods of the De-  
2 partment of Veterans Affairs currently in effect  
3 for tracking and assessing operating and sup-  
4 port costs on major acquisition programs (as  
5 defined in section 8181 of such title, as added  
6 by subsection (a)); and

7 (B) submit to the Secretary of Veterans  
8 Affairs a report on such findings and rec-  
9 ommendations as the Director may have as a  
10 result of the review conducted pursuant to sub-  
11 paragraph (A), including an assessment by the  
12 Director of the feasibility and advisability of es-  
13 tablishing baselines for operating and support  
14 costs under such title.

15 (2) TRANSMITTAL TO CONGRESS.—Not later  
16 than 30 days after receiving the report required by  
17 paragraph (1)(A), the Secretary shall submit to the  
18 Committee on Veterans' Affairs of the Senate and  
19 the Committee on Veterans' Affairs of the House of  
20 Representatives the report received by the Secretary  
21 under paragraph (1)(B), together with such com-  
22 ments on the report as the Secretary considers ap-  
23 propriate.

1 **SEC. 3. COMPTROLLER GENERAL OF THE UNITED STATES**  
2 **REPORTS ON COSTS AND FINANCIAL INFOR-**  
3 **MATION REGARDING MAJOR DEPARTMENT**  
4 **OF VETERANS AFFAIRS ACQUISITION PRO-**  
5 **GRAMS.**

6 (a) REVIEW OF OPERATING AND SUPPORT COSTS OF  
7 MAJOR ACQUISITION SYSTEMS.—

8 (1) IN GENERAL.—Not later than one year  
9 after the date of the enactment of this Act, the  
10 Comptroller General of the United States shall sub-  
11 mit to the Committee on Veterans' Affairs of the  
12 Senate and the Committee on Veterans' Affairs of  
13 the House of Representatives a report on growth in  
14 operating and support costs for major acquisition  
15 systems.

16 (2) ELEMENTS.—In preparing the report re-  
17 quired by paragraph (1), the Comptroller General  
18 shall, at a minimum—

19 (A) identify the original estimates for oper-  
20 ating and support costs for major acquisition  
21 systems selected by the Comptroller General for  
22 purposes of the report;

23 (B) assess the actual operating and sup-  
24 port costs for such major acquisition systems;

1 (C) analyze the rate of growth for oper-  
2 ating and support costs for such major acquisi-  
3 tion systems;

4 (D) for such major acquisition systems  
5 that have experienced the highest rate of  
6 growth in operating and support costs, assess  
7 the factors contributing to such growth;

8 (E) assess measures taken by the Depart-  
9 ment of Veterans Affairs to reduce operating  
10 and support costs for major acquisition sys-  
11 tems; and

12 (F) develop such recommendations as the  
13 Comptroller General considers appropriate.

14 (b) REVIEW OF FINANCIAL INFORMATION RELATING  
15 TO MAJOR VETERAN ACQUISITION PROGRAMS.—

16 (1) REVIEW.—The Comptroller General of the  
17 United States shall perform a review of weaknesses  
18 in operations affecting the reliability of financial in-  
19 formation on the systems and assets to be acquired  
20 under major acquisition programs.

21 (2) ELEMENTS.—The review required under  
22 paragraph (1) shall—

23 (A) identify any weaknesses in operations  
24 under major acquisition programs that hinder  
25 the capacity to assemble reliable financial infor-

1           mation on the systems and assets to be ac-  
2           quired under such programs in accordance with  
3           applicable accounting standards;

4           (B) identify any mechanisms developed by  
5           the Department of Veterans Affairs to address  
6           weaknesses in operations under major acquisi-  
7           tion programs identified pursuant to subpara-  
8           graph (A); and

9           (C) assess the implementation of the mech-  
10          anisms set forth pursuant to subparagraph (B),  
11          including—

12                 (i) the actions taken, or planned to be  
13                 taken, to implement such mechanisms;

14                 (ii) the schedule for carrying out such  
15                 mechanisms; and

16                 (iii) the metrics, if any, instituted to  
17                 assess progress in carrying out such mech-  
18                 anisms.

19           (3) CONSULTATION.—In performing the review  
20           required by paragraph (1), the Comptroller General  
21           shall seek and consider input from the Assistant  
22           Secretary of Veterans Affairs for Management.

23           (4) REPORT.—Not later than one year after the  
24           date of the enactment of this Act, the Comptroller  
25           General shall submit to the Committee on Veterans’

1       Affairs of the Senate and the Committee on Vet-  
2       erans' Affairs of the House of Representatives a re-  
3       port on the findings of the Comptroller General with  
4       respect to the review performed pursuant to para-  
5       graph (1).

6       (c) DEFINITION OF MAJOR ACQUISITION PRO-  
7       GRAM.—In this section, the term “major acquisition pro-  
8       gram” has the meaning given such term in section 8181  
9       of title 38, United States Code, as added by section 2(a).

○