

## Union Calendar No. 47

111TH CONGRESS  
1ST SESSION

# H. R. 2101

[Report No. 111-101]

To promote reform and independence in the oversight of weapons system acquisition by the Department of Defense.

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### IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2009

Mr. SKELTON (for himself, Mr. MCHUGH, Mr. ANDREWS, Mr. SPRATT, Mr. CONAWAY, Mr. COFFMAN of Colorado, Mr. SESTAK, Mr. BRADY of Pennsylvania, Mr. FORBES, Mrs. TAUSCHER, Mr. SNYDER, Ms. SHEA-PORTER, and Mr. MASSA) introduced the following bill; which was referred to the Committee on Armed Services

MAY 12, 2009

Additional sponsors: Mr. AKIN, Mr. WITTMAN, Mr. TAYLOR, Mr. BARTLETT, Mr. COURTNEY, Mr. MARSHALL, Mr. KISSELL, Mr. LARSEN of Washington, Mr. LOEBSACK, Ms. PINGREE of Maine, and Mr. ABERCROMBIE

MAY 12, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on April 27, 2009]

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## A BILL

To promote reform and independence in the oversight of weapons system acquisition by the Department of Defense.

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; TABLE OF CONTENTS.**

4        (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5 *“Weapons Acquisition System Reform Through Enhancing*  
 6 *Technical Knowledge and Oversight Act of 2009”.*

7        (b) *TABLE OF CONTENTS.*—*The table of contents for*  
 8 *this Act is as follows:*

*Sec. 1. Short title; table of contents.*

**TITLE I—ACQUISITION ORGANIZATION**

*Sec. 101. Independent performance of acquisition oversight functions.*

*Sec. 102. Oversight of cost estimation.*

*Sec. 103. Oversight of systems engineering.*

*Sec. 104. Oversight of performance assessment.*

*Sec. 105. Assessment of technological maturity of critical technologies of major de-*  
*fense acquisition programs by the Director of Defense Research*  
*and Engineering.*

*Sec. 106. Role of the commanders of the combatant commands in identifying joint*  
*military requirements.*

**TITLE II—ACQUISITION POLICY**

*Sec. 201. Acquisition strategies ensuring competition throughout the lifecycle of*  
*major defense acquisition programs.*

*Sec. 202. Additional requirements for certain major defense acquisition programs.*

*Sec. 203. Requirement for certification of major systems prior to Milestone B.*

*Sec. 204. Critical cost growth in major defense acquisition programs.*

*Sec. 205. Organizational conflicts of interest in the acquisition of major weapon*  
*systems.*

*Sec. 206. Awards for Department of Defense personnel for excellence in the acqui-*  
*sition of products and services.*

*Sec. 207. Consideration of trade-offs among cost, schedule, and performance in the*  
*acquisition of major weapon systems.*

1                   **TITLE I—ACQUISITION**  
2                   **ORGANIZATION**

3   **SEC. 101. INDEPENDENT PERFORMANCE OF ACQUISITION**  
4                   **OVERSIGHT FUNCTIONS.**

5           (a) *IN GENERAL.*—Chapter 4 of title 10, United States  
6 Code, is amended by adding at the end the following new  
7 section:

8   **“§ 145. Principal advisors for acquisition oversight**  
9                   **functions**

10           “(a) *ASSIGNMENT OF ACQUISITION OVERSIGHT FUNC-*  
11 *TIONS.*—The Secretary of Defense shall designate an official  
12 within the Office of the Secretary of Defense as the principal  
13 advisor to the Secretary for each acquisition oversight func-  
14 tion specified in subsection (c). An official may be des-  
15 igned to perform one or more of such functions. The per-  
16 formance of duties pursuant to a designation under this sec-  
17 tion shall not limit or otherwise affect the performance of  
18 any other duties assigned to such official by the Secretary  
19 or by other officers of the Department responsible for the  
20 management and direction of such official except as nec-  
21 essary to satisfy the requirements of subsection (b).

22           “(b) *QUALIFICATIONS.*—In designating an official for  
23 a function pursuant to subsection (a), the Secretary shall  
24 ensure that the official reports directly to the Secretary in  
25 the performance of such function and is—

1           “(1) *highly expert in matters relating to the*  
2           *function;*

3           “(2) *assigned the appropriate staff and resources*  
4           *necessary to carry out the function;*

5           “(3) *independent from those engaged in the exe-*  
6           *cution of acquisition programs;*

7           “(4) *free of any undue political influence; and*

8           “(5) *free of any personal conflict of interest.*

9           “(c) *ACQUISITION OVERSIGHT FUNCTIONS.—(1) The*  
10          *acquisition oversight functions to be performed by officials*  
11          *designated pursuant to subsection (a) are as follows:*

12           “(A) *Cost estimation.*

13           “(B) *Systems engineering.*

14           “(C) *Performance assessment.*

15           “(D) *Such other acquisition functions as the Sec-*  
16          *retary considers appropriate.*

17          “(2) *Each acquisition oversight function specified in*  
18          *paragraph (1) shall cover all phases of an acquisition pro-*  
19          *gram, including setting of requirements, formulation and*  
20          *execution of budgets, and program execution.”.*

21          “(b) *CLERICAL AMENDMENT.—The table of sections at*  
22          *the beginning of such chapter is amended by adding at the*  
23          *end the following new item:*

          “145. *Principal advisors for acquisition oversight functions.”.*

1 **SEC. 102. OVERSIGHT OF COST ESTIMATION.**

2 (a) *IN GENERAL.*—Chapter 137 of title 10, United  
3 States Code, is amended by adding at the end the following  
4 new section:

5 **“§2334. Acquisition oversight: oversight of cost esti-**  
6 **mation**

7 “(a) *ISSUANCE OF POLICIES, PROCEDURES, GUID-*  
8 *ANCE, AND COST ESTIMATES.*—The official assigned over-  
9 sight of cost estimation pursuant to section 145 of this title  
10 shall issue the following:

11 “(1) *Policies and procedures governing the con-*  
12 *duct of cost estimation and cost analysis generally for*  
13 *the acquisition programs of the Department of De-*  
14 *fense.*

15 “(2) *Guidance relating to cost estimates and cost*  
16 *analyses conducted in connection with major defense*  
17 *acquisition programs under chapter 144 of this title*  
18 *or major automated information system programs*  
19 *under chapter 144A of this title.*

20 “(3) *Guidance relating to the proper selection of*  
21 *confidence levels for cost estimates generally, and spe-*  
22 *cifically, for the proper selection of confidence levels*  
23 *for cost estimates for major defense acquisition pro-*  
24 *grams under chapter 144 of this title or major auto-*  
25 *mated information system program under chapter*  
26 *144A of this title.*

1           “(4) *Guidance relating to full consideration of*  
2 *life-cycle management and sustainability costs of*  
3 *major defense acquisition programs under chapter*  
4 *144 of this title or major automated information sys-*  
5 *tem programs under chapter 144A of this title.*

6           “(5) *Independent cost estimates and cost anal-*  
7 *yses for major defense acquisition programs and*  
8 *major automated information system programs for*  
9 *which the Under Secretary of Defense for Acquisition,*  
10 *Technology, and Logistics is the Milestone Decision*  
11 *Authority—*

12           “(A) *in advance of—*

13           “(i) *any certification under section*  
14 *2366a or 2366b of title 10, United States*  
15 *Code;*

16           “(ii) *any decision to enter into low-*  
17 *rate initial production or full-rate produc-*  
18 *tion;*

19           “(iii) *any certification under section*  
20 *2433(e)(2) of this title; and*

21           “(iv) *any report under section 2445c(f)*  
22 *of this title; and*

23           “(B) *at any other time considered necessary*  
24 *by such official or upon the request of the Under*

1            *Secretary of Defense for Acquisition, Technology,*  
2            *and Logistics.*

3            “(b) *REVIEW OF COST ESTIMATES, COST ANALYSES,*  
4 *COST INDEXES, AND RECORDS OF THE MILITARY DEPART-*  
5 *MENTS.—The Secretary of Defense shall ensure that the offi-*  
6 *cial designated for oversight of cost estimation pursuant to*  
7 *section 145 of this title—*

8            “(1) *promptly receives the results of all cost esti-*  
9            *mates and cost analyses conducted by the military de-*  
10           *partments, and all studies conducted by the military*  
11           *departments in connection with such cost estimates*  
12           *and cost analyses, for major defense acquisition pro-*  
13           *grams and major automated information systems of*  
14           *the military departments, and is authorized to com-*  
15           *ment on such estimates, analyses, and studies; and*

16           “(2) *has timely access to any records and data*  
17           *in the Department of Defense (including the records*  
18           *and data of each military department and including*  
19           *classified and proprietary information as appro-*  
20           *priate) that the official considers necessary to review*  
21           *in order to carry out any duties under this section.*

22           “(c) *PARTICIPATION, CONCURRENCE, AND APPROVAL*  
23 *IN COST ESTIMATION.—The Secretary of Defense shall en-*  
24 *sure that the official designated for oversight of cost esti-*  
25 *mation pursuant to section 145 of this title is involved in*

1 *all discussions relating to cost estimation and the esti-*  
2 *mation of resource levels required for major defense acquisi-*  
3 *tion programs and major automated information systems*  
4 *of the Department of Defense generally at all stages of such*  
5 *programs and may—*

6           “(1) *participate in the formulation of study*  
7 *guidance for analyses of alternatives for major defense*  
8 *acquisition programs;*

9           “(2) *participate in discussion of resources associ-*  
10 *ated with requirements;*

11           “(3) *participate in the discussion of any discrep-*  
12 *ancies between an independent cost estimate and the*  
13 *cost estimate of a military department for a major*  
14 *defense acquisition program or major automated in-*  
15 *formation system of the Department of Defense;*

16           “(4) *approve or disapprove, at such official’s sole*  
17 *discretion, the confidence level used in establishing a*  
18 *baseline description or budget estimate for a major*  
19 *defense acquisition program or major automated in-*  
20 *formation system of the Department of Defense at any*  
21 *of the events specified in paragraph (5) of subsection*  
22 *(a) of this section;*

23           “(5) *concur in the choice of a baseline descrip-*  
24 *tion or budget estimate for use at any of the events*

1       *specified in paragraph (5) of subsection (a) of this*  
2       *section; and*

3               “(6) *participate in consideration of any decision*  
4       *to request authorization of a multiyear procurement*  
5       *contract for a major defense acquisition program.*

6       “(d) *DISCLOSURE OF CONFIDENCE LEVELS FOR BASE-*  
7       *LINE ESTIMATES OF MAJOR DEFENSE ACQUISITION PRO-*  
8       *GRAMS.—The official designated to perform oversight of cost*  
9       *estimation pursuant to section 145 of this title, in approv-*  
10       *ing a confidence level for use in a major defense acquisition*  
11       *program pursuant to subsection (c)(4), shall—*

12               “(1) *disclose the confidence level used in estab-*  
13       *lishing a baseline estimate for the major defense ac-*  
14       *quisition program, the rationale for selecting such*  
15       *confidence level, and, if such confidence level is less*  
16       *than 80 percent, the justification for selecting a con-*  
17       *fidence level of less than 80 percent; and*

18               “(2) *include the disclosure required by para-*  
19       *graph (1) in any decision documentation approving*  
20       *a baseline estimate for the major defense acquisition*  
21       *program, in the next Selected Acquisition Report pur-*  
22       *suant to section 2432 of this title for the major de-*  
23       *fense acquisition program, and in the next annual re-*  
24       *port submitted under subsection (f).*

1       “(e) *RELATIONSHIP TO COST ANALYSIS IMPROVEMENT*  
 2 *GROUP.*—*The official designated to perform oversight of*  
 3 *cost estimation pursuant to section 145 of this title shall*  
 4 *be assigned responsibility for the management and oversight*  
 5 *of the Cost Analysis Improvement Group of the Department*  
 6 *of Defense.*

7       “(f) *ANNUAL REPORT.*—*Not later than March 1 of*  
 8 *each year, beginning on March 1, 2010, the official des-*  
 9 *ignated to perform oversight of cost estimation pursuant to*  
 10 *section 145 of this title shall submit to the congressional*  
 11 *defense committees a report on the activities undertaken*  
 12 *pursuant to this section during the preceding year. The re-*  
 13 *port shall be in an unclassified form but may include a*  
 14 *classified annex.”.*

15       (b) *CLERICAL AMENDMENT.*—*The table of sections at*  
 16 *the beginning of such chapter is amended by adding at the*  
 17 *end the following new item:*

“2334. *Acquisition oversight: oversight of cost estimation.*”.

18 **SEC. 103. OVERSIGHT OF SYSTEMS ENGINEERING.**

19       (a) *IN GENERAL.*—*Chapter 137 of title 10, United*  
 20 *States Code, as amended by section 102, is further amended*  
 21 *by adding at the end the following new section:*

22 **“§2334a. Acquisition oversight: oversight of systems**  
 23 **engineering**

24       “(a) *ISSUANCE OF POLICIES, PROCEDURES, AND*  
 25 *GUIDANCE.*—*The official designated to perform oversight of*

1 *systems engineering pursuant to section 145 of this title*  
2 *shall—*

3           “(1) *issue policies, procedures, and guidance for*  
4 *all elements of the Department of Defense con-*  
5 *cerning—*

6                   “(A) *the use of systems engineering prin-*  
7 *ciples and best practices, generally;*

8                   “(B) *the use of systems engineering ap-*  
9 *proaches to enhance reliability, availability, and*  
10 *maintainability on major defense acquisition*  
11 *programs;*

12                   “(C) *the development of systems engineering*  
13 *master plans for major defense acquisition pro-*  
14 *grams, including systems engineering consider-*  
15 *ations in support of life-cycle management and*  
16 *sustainability;*

17                   “(D) *the inclusion of provisions relating to*  
18 *systems engineering and reliability growth in re-*  
19 *quests for proposals;*

20                   “(E) *the appropriate use of development*  
21 *planning to reduce the time from system develop-*  
22 *ment to deployment, to reduce development risk*  
23 *and cost growth, and to provide future bench-*  
24 *marks against which to trade requirements, cost,*  
25 *and schedule;*

1           “(F) developmental test and evaluation gen-  
2           erally;

3           “(G) in coordination with the Director of  
4           Operational Test and Evaluation, the integra-  
5           tion of developmental test and evaluation with  
6           operational test and evaluation;

7           “(H) in coordination with the Director of  
8           Operational Test and Evaluation, the develop-  
9           ment of test and evaluation master plans for  
10          major defense acquisition programs; and

11          “(I) the use of developmental test and eval-  
12          uation as part of a coordinated systems engi-  
13          neering approach to system development; and

14          “(2) provide advocacy, oversight, and direction  
15          to elements of the acquisition workforce responsible for  
16          functions relating to systems engineering, develop-  
17          mental test and evaluation, and life-cycle manage-  
18          ment and sustainability.

19          “(b) *PARTICIPATION IN REQUIREMENTS DISCUS-*  
20          *SIONS.—The official designated to perform oversight of sys-*  
21          *tems engineering pursuant to section 145 of this title shall*  
22          *provide input on the inclusion of systems engineering re-*  
23          *quirements in the process for consideration of joint military*  
24          *requirements by the Joint Requirements Oversight Council*  
25          *pursuant to section 181 of title 10, United States Code, in-*

1 *cluding specific input relating to each capabilities develop-*  
2 *ment document.*

3       “(c) *ACCESS TO RECORDS OF THE MILITARY DEPART-*  
4 *MENTS.—The official designated to perform oversight of sys-*  
5 *tems engineering pursuant to section 145 of this title shall*  
6 *have access to any records or data of the Department of*  
7 *Defense (including the records and data of each military*  
8 *department and including classified and proprietary infor-*  
9 *mation as appropriate) that the official considers necessary*  
10 *to review in order to carry out any duties under this sec-*  
11 *tion.*

12       “(d) *ASSESSMENT OF MILITARY DEPARTMENT CAPA-*  
13 *BILITIES FOR SYSTEMS ENGINEERING AND DEVELOP-*  
14 *MENTAL TEST AND EVALUATION.—The official designated*  
15 *to perform oversight of systems engineering pursuant to sec-*  
16 *tion 145 of this title shall—*

17               “(1) *periodically assess the capabilities of the*  
18 *military departments for systems engineering (includ-*  
19 *ing development planning) and developmental test*  
20 *and evaluation;*

21               “(2) *provide such assessment, along with such*  
22 *recommendations for improvement as the official con-*  
23 *siders necessary, to the Secretary of Defense and the*  
24 *Under Secretary of Defense for Acquisition, Tech-*  
25 *nology, and Logistics; and*

1           “(3) include such assessment and recommenda-  
2           tions in the annual report required by subsection (g).

3           “(e) *REVIEW AND APPROVAL OF PLANS FOR MAJOR*  
4 *DEFENSE ACQUISITION PROGRAMS.—The official des-*  
5 *ignated to perform oversight of systems engineering pursu-*  
6 *ant to section 145 of this title shall review and approve*  
7 *the following plans with respect to any major defense acqui-*  
8 *sition program:*

9           “(1) *The systems engineering master plan.*

10          “(2) *The developmental test and evaluation plan*  
11 *within the test and evaluation master plan.*

12          “(f) *REPORTING THROUGH UNDER SECRETARY.—The*  
13 *official designated to perform oversight of systems engineer-*  
14 *ing pursuant to section 145 of this title shall report to the*  
15 *Secretary of Defense through the Under Secretary of Defense*  
16 *for Acquisition, Technology, and Logistics.*

17          “(g) *ANNUAL REPORT.—Not later than March 1 of*  
18 *each year, beginning on March 1, 2010, the official des-*  
19 *ignated to perform oversight of systems engineering pursu-*  
20 *ant to section 145 of this title shall submit to the congres-*  
21 *sional defense committees a report on the activities under-*  
22 *taken pursuant to this section during the preceding year.*  
23 *The report shall be in unclassified form but may include*  
24 *a classified annex.”.*

1           (b) *CLERICAL AMENDMENT.*—*The table of sections at*  
2 *the beginning of such chapter, as amended by section 102,*  
3 *is further amended by adding at the end the following new*  
4 *item:*

          “2334a. *Acquisition oversight: oversight of systems engineering.*”.

5 **SEC. 104. OVERSIGHT OF PERFORMANCE ASSESSMENT.**

6           (a) *IN GENERAL.*—*Chapter 137 of title 10, United*  
7 *States Code, as amended by section 103, is further amended*  
8 *by adding at the end the following new section:*

9 **“§ 2334b. Acquisition oversight: oversight of perform-**  
10 **ance assessment**

11           “(a) *ISSUANCE OF POLICIES, PROCEDURES, AND*  
12 *GUIDANCE FOR PERFORMANCE ASSESSMENTS.*—*The offi-*  
13 *cial designated to perform oversight of performance assess-*  
14 *ment pursuant to section 145 of this title shall be respon-*  
15 *sible for the issuance of policies, procedures, and guidance*  
16 *governing the conduct of performance assessments for the*  
17 *acquisition programs of the Department of Defense, includ-*  
18 *ing assessment of the extent to which acquisition pro-*  
19 *grams—*

20           “(1) *deliver sufficient capability to the*  
21 *warfighter;*

22           “(2) *achieve timely delivery of such capability;*  
23 *and*

24           “(3) *deliver a level of value consistent with re-*  
25 *sources expended.*

1           “(b) *ASSESSMENT OF BASELINE QUALITY.*—*The offi-*  
2 *cial designated to perform oversight of performance assess-*  
3 *ment pursuant to section 145 of this title shall periodically*  
4 *assess the suitability of the baseline descriptions required*  
5 *by section 2435 of title 10, United States Code, of major*  
6 *defense acquisition programs for providing a basis for per-*  
7 *formance assessment and make such recommendations to*  
8 *the Secretary of Defense and the Under Secretary of Defense*  
9 *for Acquisition, Technology, and Logistics as the official*  
10 *considers necessary to improve the suitability of baseline*  
11 *descriptions for such purpose.*

12           “(c) *EARNED VALUE MANAGEMENT SYSTEM.*—*The of-*  
13 *ficial designated to perform oversight of performance assess-*  
14 *ment pursuant to section 145 of this title shall be respon-*  
15 *sible for the management and oversight of the records of*  
16 *the earned value management system of the Department of*  
17 *Defense.*

18           “(d) *PARTICIPATION IN CERTAIN PROGRAM RE-*  
19 *VIEWS.*—*The official designated to perform oversight of per-*  
20 *formance assessment pursuant to section 145 of this title*  
21 *is authorized to present an assessment of the performance*  
22 *of a major defense acquisition program during—*

23                   “(1) *any discussions prior to certification under*  
24           *section 2433(e)(2) of this title;*

1           “(2) any discussions prior to entry into full-rate  
2           production; and

3           “(3) consideration of any decision to request au-  
4           thorization of a multiyear procurement contract for a  
5           major defense acquisition program.

6           “(e) ANNUAL REPORT.—Not later than March 1 of  
7 each year, beginning on March 1, 2010, the official des-  
8 igned to perform oversight of performance assessment pur-  
9 suant to section 145 of this title shall submit to the congres-  
10 sional defense committees a report on the activities under-  
11 taken pursuant to this section during the preceding year.  
12 The report shall be in unclassified form but may include  
13 a classified annex.”.

14           (b) CLERICAL AMENDMENT.—The table of sections at  
15 the beginning of such chapter, as amended by section 103,  
16 is further amended by adding at the end the following new  
17 item:

“2334b. Acquisition oversight: oversight of performance assessment.”.

18 **SEC. 105. ASSESSMENT OF TECHNOLOGICAL MATURITY OF**  
19 **CRITICAL TECHNOLOGIES OF MAJOR DE-**  
20 **FENSE ACQUISITION PROGRAMS BY THE DI-**  
21 **RECTOR OF DEFENSE RESEARCH AND ENGI-**  
22 **NEERING.**

23           (a) ASSESSMENT BY DIRECTOR OF DEFENSE RE-  
24 SEARCH AND ENGINEERING.—

1           (1) *IN GENERAL.*—Section 139a of title 10,  
2           *United States Code, is amended by adding at the end*  
3           *the following new subsection:*

4           “(c)(1) *The Director of Defense Research and Engi-*  
5           *neering shall periodically review and assess the techno-*  
6           *logical maturity and integration risk of critical technologies*  
7           *of the major defense acquisition programs of the Depart-*  
8           *ment of Defense and report on the findings of such reviews*  
9           *and assessments to the Under Secretary of Defense for Ac-*  
10           *quisition, Technology, and Logistics.*

11           “(2) *The Director shall submit to the Secretary of De-*  
12           *fense and to the congressional defense committees by Janu-*  
13           *ary 1 of each year a report on the technological maturity*  
14           *and integration risk of critical technologies of the major de-*  
15           *fense acquisition programs of the Department of Defense.”.*

16           (2) *FIRST ANNUAL REPORT.*—*The first annual*  
17           *report under subsection (c)(2) of section 139a of title*  
18           *10, United States Code (as added by paragraph (1)),*  
19           *shall be submitted to the congressional defense com-*  
20           *mittees not later than March 1, 2011, and shall ad-*  
21           *dress the results of reviews and assessments conducted*  
22           *by the Director of Defense Research and Engineering*  
23           *pursuant to subsection (c)(1) of such section (as so*  
24           *added) during the preceding calendar year.*

1           **(b) REPORT ON RESOURCES FOR IMPLEMENTATION.**—  
2 *Not later than 120 days after the date of the enactment of*  
3 *this Act, the Director of Defense Research and Engineering*  
4 *shall submit to the congressional defense committees a re-*  
5 *port describing any additional resources that may be re-*  
6 *quired by the Director, and by other research and engineer-*  
7 *ing elements of the Department of Defense, to carry out the*  
8 *following:*

9           (1) *The requirements under the amendment*  
10 *made by subsection (a)(1).*

11           (2) *The technological maturity assessments re-*  
12 *quired by section 2366b(a) of title 10, United States*  
13 *Code.*

14           (3) *The requirements of Department of Defense*  
15 *Instruction 5000, as revised.*

16 **SEC. 106. ROLE OF THE COMMANDERS OF THE COMBATANT**  
17 **COMMANDS IN IDENTIFYING JOINT MILITARY**  
18 **REQUIREMENTS.**

19           **(a) IN GENERAL.**—*Section 181(d) of title 10, United*  
20 *States Code, is amended—*

21           (1) *by inserting “(1)” before “The Under Sec-*  
22 *retary”;* and

23           (2) *by adding at the end the following new para-*  
24 *graph:*

1       “(2) *The Council shall seek and consider input from*  
2 *the commanders of the combatant commands in carrying*  
3 *out its mission under paragraphs (1) and (2) of subsection*  
4 *(b) and in conducting periodic reviews in accordance with*  
5 *the requirements of subsection (e). Such input may include,*  
6 *but is not limited to, an assessment of the following:*

7           “(A) *Any current or projected missions or*  
8 *threats in the theater of operations of the commander*  
9 *of a combatant command that would inform the as-*  
10 *essment of a new joint military requirement.*

11          “(B) *The necessity and sufficiency of a proposed*  
12 *joint military requirement in terms of current and*  
13 *projected missions or threats.*

14          “(C) *The relative priority of a proposed joint*  
15 *military requirement in comparison with other joint*  
16 *military requirements within the theater of operations*  
17 *of a commander of a combatant command.*

18          “(D) *The ability of partner nations in the the-*  
19 *ater of operations of the commander of a combatant*  
20 *command to assist in meeting the joint military re-*  
21 *quirement or the benefit, if any, of a partner nation*  
22 *assisting in development or use of technologies devel-*  
23 *oped to meet the joint military requirement.”.*

24       (b) *COMPTROLLER GENERAL OF THE UNITED STATES*  
25 *REVIEW OF IMPLEMENTATION.—Not later than two years*

1 *after the date of the enactment of this Act, the Comptroller*  
2 *General of the United States shall submit to the Committees*  
3 *on Armed Services of the Senate and the House of Rep-*  
4 *resentatives a report on the implementation of the require-*  
5 *ments of (1) subsection (d)(2) of section 181 of title 10,*  
6 *United States Code (as amended by subsection (a)), for the*  
7 *Joint Requirements Oversight Council to solicit and con-*  
8 *sider input from the commanders of the combatant com-*  
9 *mands, and (2) subsection (b) of section 181 of title 10,*  
10 *United States Code (as amended by section 942 of the Na-*  
11 *tional Defense Authorization Act for Fiscal Year 2008 (Pub-*  
12 *lic Law 110–181; 122 Stat. 287)). The report shall include,*  
13 *at a minimum, an assessment of the extent to which the*  
14 *Council has effectively sought, and the commanders of the*  
15 *combatant commands have provided, meaningful input on*  
16 *proposed joint military requirements.*

## 17 **TITLE II—ACQUISITION POLICY**

### 18 **SEC. 201. ACQUISITION STRATEGIES ENSURING COMPETI-** 19 **TION THROUGHOUT THE LIFECYCLE OF** 20 **MAJOR DEFENSE ACQUISITION PROGRAMS.**

21 (a) *ACQUISITION STRATEGY ENSURING COMPETI-*  
22 *TION.—The Secretary of Defense shall ensure that the acqui-*  
23 *sition strategy for each major defense acquisition program*  
24 *includes—*

1           (1) *measures to ensure competition, or the option*  
2           *of competition, at both the prime contract level and*  
3           *the subcontract level (at such tier or tiers as are ap-*  
4           *propriate) of such program throughout the life-cycle of*  
5           *such program as a means to improve contractor per-*  
6           *formance; and*

7           (2) *adequate documentation of the rationale for*  
8           *the selection of the subcontract tier or tiers under*  
9           *paragraph (1).*

10          (b) *MEASURES TO ENSURE COMPETITION.—The meas-*  
11          *ures to ensure competition, or the option of competition,*  
12          *for purposes of subsection (a) may include measures to*  
13          *achieve the following, in appropriate cases if such measures*  
14          *are cost-effective:*

15               (1) *Competitive prototyping.*

16               (2) *Dual-sourcing.*

17               (3) *Unbundling of contracts.*

18               (4) *Funding of a second source for interchange-*  
19               *able, next-generation prototype systems or subsystems.*

20               (5) *Use of modular, open architectures to enable*  
21               *competition for upgrades.*

22               (6) *Use of build-to-print approaches to enable*  
23               *production through multiple sources.*

24               (7) *Acquisition of complete technical data pack-*  
25               *ages.*

1           (8) *Periodic competitions for subsystem up-*  
2           *grades.*

3           (9) *Licensing of additional suppliers.*

4           (10) *Periodic system or program reviews to ad-*  
5           *dress long-term competitive effects of program deci-*  
6           *sions.*

7           (c) *CONSIDERATION OF COMPETITION THROUGHOUT*  
8           *OPERATION AND SUSTAINMENT OF MAJOR DEFENSE AC-*  
9           *QUISITION PROGRAMS.—In carrying out this section, the*  
10           *Secretary of Defense shall ensure that, with respect to main-*  
11           *tenance of a major defense acquisition program, consider-*  
12           *ation is given to capabilities within the Department of De-*  
13           *fense to perform maintenance functions.*

14           **SEC. 202. ADDITIONAL REQUIREMENTS FOR CERTAIN**  
15   **MAJOR DEFENSE ACQUISITION PROGRAMS.**

16           (a) *ADDITIONAL REQUIREMENTS RELATING TO MILE-*  
17           *STONE B APPROVAL.—Section 2366b of title 10, United*  
18           *States Code, is amended—*

19                                   (1) *in subsection (d)—*

20   (A) *by inserting “(1)” before “The milestone*  
21   *decision authority may”; and*

22   (B) *by striking the second sentence and in-*  
23   *serting the following:*

24                                   “(2) *Whenever the milestone decision authority makes*  
25                                   *such a determination and authorizes such a waiver—*

1           “(A) the waiver, the determination, and the rea-  
2           sons for the determination shall be submitted in writ-  
3           ing to the congressional defense committees within 30  
4           days after the waiver is authorized; and

5           “(B) the milestone decision authority shall re-  
6           view the program not less often than annually to de-  
7           termine the extent to which such program currently  
8           satisfies the certification components specified in  
9           paragraphs (1) and (2) of subsection (a) until such  
10          time as the milestone decision authority determines  
11          that the program satisfies all such certification com-  
12          ponents.”;

13          (2) by redesignating subsections (e) and (f) as  
14          subsections (f) and (g), respectively, and inserting  
15          after subsection (d) the following new subsection (e):

16          “(e) *DESIGNATION OF CERTIFICATION STATUS IN*  
17          *BUDGET DOCUMENTATION.*—Any budget request, budget  
18          justification material, budget display, reprogramming re-  
19          quest, Selected Acquisition Report, or other budget docu-  
20          mentation or performance report submitted by the Sec-  
21          retary of Defense to the President regarding a major defense  
22          acquisition program receiving a waiver pursuant to sub-  
23          section (d) shall prominently and clearly indicate that such  
24          program has not fully satisfied the certification require-  
25          ments of this section until such time as the milestone deci-

1 *sion authority makes the determination that such program*  
2 *has satisfied all certification components pursuant to sub-*  
3 *section (d)(2)(B).”;*

4 *(3) in subsection (a)—*

5 *(A) in paragraph (1), by striking “and” at*  
6 *the end;*

7 *(B) by redesignating paragraph (2) as*  
8 *paragraph (3);*

9 *(C) by inserting after paragraph (1) the fol-*  
10 *lowing new paragraph (2):*

11 *“(2) has received a preliminary design review*  
12 *and conducted a formal post-preliminary design re-*  
13 *view assessment, and certifies on the basis of such as-*  
14 *essment that the program demonstrates a high likeli-*  
15 *hood of accomplishing its intended mission or that no*  
16 *preliminary design review is necessary for such pro-*  
17 *gram to demonstrate a high likelihood of accom-*  
18 *plishing its intended mission; and”;* and

19 *(D) in paragraph (3), as redesignated by*  
20 *subparagraph (B) of this paragraph—*

21 *(i) in subparagraph (D), by striking*  
22 *the semicolon and inserting “, as deter-*  
23 *mined by the Milestone Decision Authority*  
24 *on the basis of an independent review and*

1                   *assessment by the Director of Defense Re-*  
2                   *search and Engineering; and”;*

3                   *(ii) by striking subparagraph (E); and*

4                   *(iii) by redesignating subparagraph*  
5                   *(F) as subparagraph (E).*

6           **(b) CERTIFICATION AND REVIEW OF PROGRAMS EN-**  
7   **TERING DEVELOPMENT PRIOR TO ENACTMENT OF SECTION**  
8   **2366B OF TITLE 10.—**

9                   **(1) DETERMINATION.—***(A) Except as provided in*  
10                   *subparagraph (B), beginning not later than 270 days*  
11                   *after the date of the enactment of this Act, for each*  
12                   *major defense acquisition program that has not re-*  
13                   *ceived a Milestone C approval, or Key Decision Point*  
14                   *C approval in the case of a space program, the Mile-*  
15                   *stone Decision Authority shall determine whether or*  
16                   *not the program satisfies the certification components*  
17                   *specified in paragraphs (1) and (2) of subsection (a)*  
18                   *of section 2366b of title 10, United States Code.*

19                   **(B)** *Subparagraph (A) shall not apply to a*  
20                   *major defense acquisition program that has been re-*  
21                   *viewed pursuant to section 2366b of title 10, United*  
22                   *States Code, prior to the date that is 270 days after*  
23                   *the date of the enactment of this Act, or a major de-*  
24                   *fense acquisition program that has not yet received*  
25                   *Milestone B approval.*

1           (2) *ANNUAL REVIEW.*—*The Milestone Decision*  
2 *Authority shall review any program determined pur-*  
3 *suant to paragraph (1) not to satisfy the certification*  
4 *components of subsection (a) of section 2366b of title*  
5 *10, United States Code, not less often than annually*  
6 *thereafter to determine the extent to which such pro-*  
7 *gram currently satisfies the certification components*  
8 *specified in paragraphs (1) and (2) of subsection (a)*  
9 *of such section until such time as the Milestone Deci-*  
10 *sion Authority determines that the program satisfies*  
11 *all such certification components.*

12           (3) *DESIGNATION OF CERTIFICATION STATUS IN*  
13 *BUDGET DOCUMENTATION.*—*Any budget request,*  
14 *budget justification material, budget display, re-*  
15 *programming request, Selected Acquisition Report, or*  
16 *other budget documentation or performance report*  
17 *submitted by the Secretary of Defense to the President*  
18 *regarding a major defense acquisition program which*  
19 *the Milestone Decision Authority determines under*  
20 *paragraph (1) does not satisfy the certification com-*  
21 *ponents specified in paragraphs (1) and (2) of sub-*  
22 *section (a) of section 2366b of title 10, United States*  
23 *Code, shall prominently and clearly indicate that*  
24 *such program has not fully satisfied such certification*  
25 *components until such time as the Milestone Decision*

1        *Authority makes the determination that such program*  
2        *has satisfied all certification components pursuant to*  
3        *paragraph (2).*

4        *(c) REVIEWS OF PROGRAMS RESTRUCTURED AFTER*  
5        *EXPERIENCING CRITICAL COST GROWTH.—The official des-*  
6        *ignated to perform oversight of performance assessment pur-*  
7        *suant to section 145 of title 10, United States Code, as*  
8        *added by this Act, shall annually review each major defense*  
9        *acquisition program that has been considered pursuant to*  
10       *paragraph (2) of section 2433(e) of title 10, United States*  
11       *Code, and which has been certified as necessary to continue*  
12       *pursuant to such paragraph, to assess the success of the pro-*  
13       *gram in achieving adequate program performance after the*  
14       *completion of such consideration. The results of reviews per-*  
15       *formed pursuant to this subsection shall be included in the*  
16       *next annual report of such official.*

17       **SEC. 203. REQUIREMENT FOR CERTIFICATION OF MAJOR**  
18       **SYSTEMS PRIOR TO MILESTONE B.**

19       *(a) CERTIFICATION.—Except as provided in subsection*  
20       *(b), beginning not later than 270 days after the date of the*  
21       *enactment of this Act, for each major defense acquisition*  
22       *program that has not received Milestone B approval, or Key*  
23       *Decision Point B approval in the case of a space program,*  
24       *the Milestone Decision Authority shall certify, after con-*  
25       *sultation with the Joint Requirements Oversight Council on*

1 *matters relating to program requirements and military*  
2 *needs—*

3           (1) *that the program fulfills an approved initial*  
4 *capabilities document;*

5           (2) *that the program is being executed by an en-*  
6 *tity with a relevant core competency as identified by*  
7 *the Secretary of Defense under section 118b of title*  
8 *10, United States Code;*

9           (3) *if the program duplicates a capability al-*  
10 *ready provided by an existing program, the duplica-*  
11 *tion provided by such program is necessary and ap-*  
12 *propriate;*

13           (4) *that a cost estimate for such program has*  
14 *been submitted to the Milestone Decision Authority*  
15 *and that the concurrence of the official designated to*  
16 *perform oversight of cost estimation pursuant to sec-*  
17 *tion 145 of title 10, United States Code, has been ob-*  
18 *tained regarding the choice of a cost estimate; and*

19           (5) *that a schedule identifying the time and*  
20 *major activities required to reach Milestone B ap-*  
21 *proval, or Key Decision Point B approval in the case*  
22 *of a space program, has been submitted to the Mile-*  
23 *stone Decision Authority.*

24           (b) *EXCEPTION.—Subsection (a) shall not apply to a*  
25 *major defense acquisition program that has received a cer-*

1 *tification as required by section 2366a, title 10, United*  
2 *States Code.*

3 (c) *REPORTS.—*

4 (1) *RELATING TO COST GROWTH OR SCHEDULE*  
5 *DELAY OF PROGRAMS CERTIFIED UNDER SUBSECTION*  
6 *(A).—With respect to a major defense acquisition pro-*  
7 *gram certified by the Milestone Decision Authority*  
8 *under subsection (a), the Milestone Decision Author-*  
9 *ity shall submit to the congressional defense commit-*  
10 *tees a report in accordance with this subsection if,*  
11 *prior to Milestone B approval—*

12 (A) *the projected cost of the program exceeds*  
13 *the cost estimate for the program submitted to*  
14 *the Milestone Decision Authority in accordance*  
15 *with subsection (a)(4) by more than 25 percent;*  
16 *or*

17 (B) *the schedule submitted to the Milestone*  
18 *Decision Authority in accordance with sub-*  
19 *section (a)(5) is delayed by more than 25 per-*  
20 *cent.*

21 (2) *RELATING TO COST GROWTH OF PROGRAMS*  
22 *CERTIFIED UNDER SECTION 2366A.—With respect to a*  
23 *major defense acquisition program certified by the*  
24 *Milestone Decision Authority under section 2366a of*  
25 *title 10, United States Code, the Milestone Decision*

1 *Authority shall submit to the congressional defense*  
2 *committees a report in accordance with this sub-*  
3 *section if the program manager submits a notification*  
4 *to the Milestone Decision Authority pursuant to sec-*  
5 *tion 2366a(b).*

6 (3) *MATTERS COVERED.—Any report submitted*  
7 *pursuant to paragraph (1) or (2) shall—*

8 (A) *identify the root causes of the cost or*  
9 *schedule growth;*

10 (B) *identify appropriate acquisition per-*  
11 *formance measures for the remainder of the pro-*  
12 *gram; and*

13 (C) *include one of the following:*

14 (i) *A written certification (with a sup-*  
15 *porting explanation) stating that—*

16 (I) *such program is essential to*  
17 *national security;*

18 (II) *there are no alternatives to*  
19 *such program that will provide accept-*  
20 *able military capability at less cost;*

21 (III) *new estimates of the cost or*  
22 *schedule, as appropriate, are reason-*  
23 *able; and*

1                   (IV) *the management structure for*  
2                   *the program is adequate to manage*  
3                   *and control program cost and schedule.*

4                   (ii) *A plan for terminating the devel-*  
5                   *opment of the program or withdrawal of*  
6                   *Milestone A approval (or Key Decision*  
7                   *Point A approval in the case of a space pro-*  
8                   *gram) if the Milestone Decision Authority*  
9                   *determines that such action is in the inter-*  
10                  *est of national defense.*

11                  (4) *TIME OF SUBMISSION.—A report required by*  
12                  *this subsection shall be submitted—*

13                   (A) *in the case of a report required by*  
14                   *paragraph (1), not later than 30 days after the*  
15                   *Milestone Decision Authority determines the cost*  
16                   *growth or schedule delay described in that para-*  
17                   *graph; and*

18                   (B) *in the case of a report required by*  
19                   *paragraph (2), not later than 30 days after the*  
20                   *Milestone Decision Authority receives the notifi-*  
21                   *cation from the program manager described in*  
22                   *that paragraph.*

23                  (d) *DEFINITIONS.—In this section:*

1           (1) *MAJOR DEFENSE ACQUISITION PROGRAM.*—  
2           *The term “major defense acquisition program” means*  
3           *the following:*

4                   (A) *A major defense acquisition program as*  
5                   *that term is defined in section 2430 of title 10,*  
6                   *United States Code.*

7                   (B) *An acquisition program of the Depart-*  
8                   *ment of Defense that the Secretary of Defense ex-*  
9                   *pects to become a major defense acquisition pro-*  
10                   *gram (as defined in such section 2430) upon*  
11                   *Milestone B approval, on the basis of the cost es-*  
12                   *timate submitted in accordance with subsection*  
13                   *(a)(4) of this section or subsection (a)(4) of sec-*  
14                   *tion 2366a of title 10, United States Code.*

15           (2) *INITIAL CAPABILITIES DOCUMENT.*—*The term*  
16           *“initial capabilities document” has the meaning pro-*  
17           *vided by section 2366a (c)(2) of such title.*

18           (3) *ENTITY.*—*The term “entity” has the meaning*  
19           *provided by section 2366a(c)(4) of such title.*

20           (4) *MILESTONE B APPROVAL.*—*The term “Mile-*  
21           *stone B approval” has the meaning provided by sec-*  
22           *tion 2366(e)(7) of such title.*

1 **SEC. 204. CRITICAL COST GROWTH IN MAJOR DEFENSE AC-**  
2 **QUISITION PROGRAMS.**

3 (a) *AUTHORIZED ACTIONS IN EVENT OF CRITICAL*  
4 *COST GROWTH.—Paragraph (2) of section 2433(e) of title*  
5 *10, United States Code, is amended to read as follows:*

6 “(2)(A) *If the program acquisition unit cost or pro-*  
7 *curement unit cost of a major defense acquisition program*  
8 *or designated major subprogram (as determined by the Sec-*  
9 *retary under subsection (d)) increases by a percentage equal*  
10 *to or greater than the critical cost growth threshold for the*  
11 *program or subprogram, the Secretary of Defense, after con-*  
12 *sultation with the Joint Requirements Oversight Council re-*  
13 *garding program requirements, shall—*

14 “(i) *determine the root cause or causes of the*  
15 *critical cost growth including the role, if any, of—*

16 “(I) *changes or growth in requirements;*

17 “(II) *unrealistic baseline estimates;*

18 “(III) *any design, engineering, manufac-*  
19 *turing, or technology integration issues;*

20 “(IV) *changes in procurement quantities;*

21 “(V) *inadequate program funding or fund-*  
22 *ing instability;*

23 “(VI) *poor performance by government or*  
24 *contractor personnel responsible for program*  
25 *management; or*

1           “(VII) other causes as identified by the Sec-  
2           retary;

3           “(ii) subject to subparagraph (B), determine  
4           whether to terminate such program or to restructure  
5           such program after assessing—

6           “(I) the root causes of cost growth identified  
7           pursuant to subparagraph (A);

8           “(II) the validity and urgency of the joint  
9           military requirement;

10          “(III) the viability of the acquisition strat-  
11          egy;

12          “(IV) the quality of program management;

13          “(V) a broad range of potential material  
14          and non-material alternatives to such program;  
15          and

16          “(VI) the need to reduce funding for other  
17          programs due to the cost growth on such pro-  
18          gram;

19          “(iii) submit the determination made under  
20          clause (ii) to Congress, before the end of the 60-day  
21          period beginning on the day the Selected Acquisition  
22          Report containing the information described in sub-  
23          section (g) is required to be submitted under section  
24          2432(f) of this title; and

1           “(iv) if a report under paragraph (1) has been  
2           previously submitted to Congress with respect to such  
3           program or subprogram for the current fiscal year but  
4           was based upon a different unit cost report from the  
5           program manager to the service acquisition executive  
6           designated by the Secretary concerned, submit a fur-  
7           ther report containing the information described in  
8           subsection (g), determined from the time of the pre-  
9           vious report to the time of the current report.

10          “(B) A program may be restructured pursuant to a  
11          determination under subparagraph (A)(ii) only if—

12                 “(i) a written certification (with a supporting  
13                 explanation) is submitted along with the determina-  
14                 tion stating that—

15                         “(I) such program is essential to national  
16                         security;

17                         “(II) there are no alternatives to such pro-  
18                         gram which will provide acceptable military ca-  
19                         pability at less cost;

20                         “(III) new estimates of the program acqui-  
21                         sition unit cost or procurement unit cost are rea-  
22                         sonable;

23                         “(IV) the program is a higher priority than  
24                         programs whose funding must be reduced to ac-  
25                         commodate cost growth on such program; and

1           “(V) the management structure for the pro-  
2           gram is adequate to manage and control pro-  
3           gram acquisition unit cost or procurement unit  
4           cost; and

5           “(ii) the most recent milestone decision is revis-  
6           ited and results in the approval of such restructured  
7           program.”.

8           (b) *TOTAL EXPENDITURE FOR PROCUREMENT RE-*  
9           *SULTING IN TREATMENT AS MAJOR DEFENSE ACQUISITION*  
10          *PROGRAM.*—Section 2430(a)(2) of such title is amended by  
11          inserting “, including all planned increments or spirals,”  
12          after “an eventual total expenditure for procurement”.

13          (c) *REQUIREMENT TO INCLUDE COST GROWTH FUND-*  
14          *ING CHANGES IN REPORT.*—When a program is restruc-  
15          tured under paragraph (2) of section 2433(e) of title 10,  
16          United States Code, the next Selected Acquisition Report  
17          for such program submitted pursuant to section 2432 of  
18          such title occurring after the submission of the budget for  
19          the fiscal year following the fiscal year in which the pro-  
20          gram was restructured shall contain a description of all  
21          funding changes included in the budget for that fiscal year  
22          as a result of the cost growth on such program, including  
23          reductions made in the budgets of other programs to accom-  
24          modate such cost growth.

1           (d) *CONFORMING AMENDMENTS.*—Section 2433(e)(3)  
2 *of such title is amended—*

3           (1) *in subparagraph (A), by striking “or (2)(B)”*  
4 *and inserting “or (2)(A)(iii)”;* and

5           (2) *in subparagraph (B)—*

6           (A) *by striking “or (2)(B)” and inserting*  
7 *“or (2)(A)(iii)”;* and

8           (B) *by striking “paragraph (2)(A)” and in-*  
9 *serting “paragraph (2)(B)”.*

10 **SEC. 205. ORGANIZATIONAL CONFLICTS OF INTEREST IN**  
11 **THE ACQUISITION OF MAJOR WEAPON SYS-**  
12 **TEMS.**

13           (a) *REQUIREMENT FOR PANEL TO PRESENT REC-*  
14 *COMMENDATIONS.*—*Not later than one year after the date of*  
15 *the enactment of this Act, the Panel on Contracting Integ-*  
16 *riety established pursuant to section 813 of the John Warner*  
17 *National Defense Authorization Act for Fiscal Year 2007*  
18 *(Public Law 109–364; 120 Stat. 2320) shall present rec-*  
19 *ommendations to the Secretary of Defense on measures to*  
20 *eliminate or mitigate organizational conflicts of interest in*  
21 *the acquisition of major weapons systems.*

22           (b) *REVISED REGULATIONS REQUIRED.*—*Not later*  
23 *than 180 days after receiving recommendations pursuant*  
24 *to subsection (a), the Secretary of Defense shall revise the*  
25 *Defense Supplement to the Federal Acquisition Regulation*

1 *to address organizational conflicts of interest by contractors*  
2 *in the acquisition of major weapon systems.*

3 (c) *POTENTIAL ORGANIZATIONAL CONFLICTS OF IN-*  
4 *TEREST.—The organizational conflicts of interest consid-*  
5 *ered during the preparation of the recommendations re-*  
6 *quired pursuant to subsection (a) shall include conflicts*  
7 *that could arise as a result of any of the following:*

8 (1) *Lead system integrator contracts on major*  
9 *defense acquisition programs and contracts that fol-*  
10 *low lead system integrator contracts on such pro-*  
11 *grams, particularly contracts for production.*

12 (2) *The ownership of business units performing*  
13 *systems engineering and technical assistance func-*  
14 *tions, professional services, or management support*  
15 *services in relation to major defense acquisition pro-*  
16 *grams by contractors who simultaneously own busi-*  
17 *ness units competing to perform as either the prime*  
18 *contractor or the supplier of a major subsystem or*  
19 *component for such programs.*

20 (3) *The award of major subsystem contracts by*  
21 *a prime contractor for a major defense acquisition*  
22 *program to business units or other affiliates of the*  
23 *same parent corporate entity, and particularly the*  
24 *award of subcontracts for software integration or the*

1       *development of a proprietary software system archi-*  
2       *ture.*

3             (4) *The performance by, or assistance of, con-*  
4       *tractors in technical evaluations on major defense ac-*  
5       *quisition programs.*

6       (d) *EXTENSION OF PANEL ON CONTRACTING INTEG-*  
7       *RITY.—Subsection (e) of section 813 of the John Warner*  
8       *National Defense Authorization Act for Fiscal Year 2007*  
9       *(Public Law 109–364; 120 Stat. 2321) is amended to read*  
10       *as follows:*

11           “(e) *TERMINATION.—(1) Subject to the restriction in*  
12       *paragraph (2), the panel shall continue to serve until the*  
13       *date that is 18 months after the date on which the Secretary*  
14       *of Defense notifies the congressional defense committees of*  
15       *an intention to terminate the panel based on a determina-*  
16       *tion that the activities of the panel no longer justify its con-*  
17       *tinuation and that concerns about contracting integrity*  
18       *have been fully mitigated.*

19           “(2) *The panel shall continue to serve at least until*  
20       *December 31, 2011.”.*

21       **SEC. 206. AWARDS FOR DEPARTMENT OF DEFENSE PER-**  
22                               **SONNEL FOR EXCELLENCE IN THE ACQUISI-**  
23                               **TION OF PRODUCTS AND SERVICES.**

24           (a) *IN GENERAL.—Not later than 180 days after the*  
25       *date of the enactment of this Act, the Secretary of Defense*

1 *shall commence carrying out a program to recognize excel-*  
2 *lent performance by individuals and teams of members of*  
3 *the Armed Forces and civilian personnel of the Department*  
4 *of Defense in the acquisition of products and services for*  
5 *the Department of Defense.*

6 (b) *ELEMENTS.—The program required by subsection*  
7 *(a) shall include the following:*

8 (1) *Procedures for the nomination by the per-*  
9 *sonnel of the military departments and the Defense*  
10 *Agencies of individuals and teams of members of the*  
11 *Armed Forces and civilian personnel of the Depart-*  
12 *ment of Defense for eligibility for recognition under*  
13 *the program.*

14 (2) *Procedures for the evaluation of nominations*  
15 *for recognition under the program by one or more*  
16 *panels of individuals from the Government, academia,*  
17 *and the private sector who have such expertise, and*  
18 *are appointed in such manner, as the Secretary shall*  
19 *establish for purposes of the program.*

20 (c) *AWARD OF CASH BONUSES.—As part of the pro-*  
21 *gram required by subsection (a), the Secretary may award*  
22 *to any individual recognized pursuant to the program a*  
23 *cash bonus authorized by any other provision of law to the*  
24 *extent that the performance of such individual so recognized*

1 *warrants the award of such bonus under such provision of*  
2 *law.*

3 **SEC. 207. CONSIDERATION OF TRADE-OFFS AMONG COST,**  
4 **SCHEDULE, AND PERFORMANCE IN THE AC-**  
5 **QUISITION OF MAJOR WEAPON SYSTEMS.**

6 (a) *REVIEW OF MECHANISMS FOR CONSIDERING*  
7 *TRADE-OFFS.*—*The Comptroller General shall review the*  
8 *use by the Department of Defense of certain mechanisms*  
9 *for considering trade-offs among cost, schedule, and per-*  
10 *formance in the acquisition of major weapon systems.*

11 (b) *MECHANISMS INCLUDED.*—*The mechanisms re-*  
12 *viewed pursuant to subsection (a) shall include—*

13 (1) *the Tri-Chair Committee, as defined in sec-*  
14 *tion 817 of the National Defense Authorization Act*  
15 *for Fiscal Year 2008 (Public Law 110–181; 122 Stat.*  
16 *225);*

17 (2) *Configuration Steering Boards as established*  
18 *pursuant to section 814 of the Duncan Hunter Na-*  
19 *tional Defense Authorization Act for Fiscal Year 2009*  
20 *(Public Law 110–417; 122 Stat. 4528);*

21 (3) *any mechanism that is used or that may po-*  
22 *tentially be used by the Office of the Under Secretary*  
23 *of Defense (Comptroller) for considering trade-offs*  
24 *among cost, schedule, and performance in the acquisi-*  
25 *tion of major weapon systems; and*

1           (4) *any other mechanisms identified as allowing*  
2           *for the consideration of trade-offs in the report on in-*  
3           *vestment strategies for major defense acquisition pro-*  
4           *grams required by section 817 of the National Defense*  
5           *Authorization Act for Fiscal Year 2008 (Public Law*  
6           *110–181).*

7           (c) *ASSESSMENT OF MECHANISMS.—The review shall*  
8           *describe and evaluate the effectiveness of the mechanisms*  
9           *identified in subsection (b).*

10          (d) *REPORT.—Not later than one year after the date*  
11          *of the enactment of this Act, the Comptroller General shall*  
12          *submit to the congressional defense committees a report on*  
13          *the review and assessment performed pursuant to this sec-*  
14          *tion. The report shall include such recommendations as the*  
15          *Comptroller General considers appropriate on the matters*  
16          *reviewed, including recommendations to improve the effec-*  
17          *tiveness of the mechanisms included in the report.*

Union Calendar No. 47

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 2101**

[Report No. 111-101]

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**A BILL**

To promote reform and independence in the oversight of weapons system acquisition by the Department of Defense.

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MAY 12, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed