

S 454

Weapon Systems Acquisition Reform Act of 2009

Congress: 111 (2009–2011, Ended)

Chamber: Senate

Policy Area: Armed Forces and National Security

Introduced: Feb 23, 2009

Current Status: Became Public Law No: 111-23.

Latest Action: Became Public Law No: 111-23. (May 22, 2009)

Law: 111-23 (Enacted May 22, 2009)

Official Text: https://www.congress.gov/bill/111th-congress/senate-bill/454

Sponsor

Name: Sen. Levin, Carl [D-MI]

Party: Democratic • State: MI • Chamber: Senate

Cosponsors (14 total)

Cosponsor	Party / State	Role	Date Joined
Sen. McCain, John [R-AZ]	R · AZ		Feb 23, 2009
Sen. Carper, Thomas R. [D-DE]	D · DE		Feb 26, 2009
Sen. Nelson, Bill [D-FL]	D · FL		Feb 26, 2009
Sen. Kaufman, Edward E. [D-DE]	D · DE		Mar 23, 2009
Sen. Nelson, Ben [D-NE]	D · NE		Apr 2, 2009
Sen. Udall, Mark [D-CO]	D · CO		Apr 2, 2009
Sen. Martinez, Mel [R-FL]	R · FL		Apr 20, 2009
Sen. Collins, Susan M. [R-ME]	R · ME		Apr 27, 2009
Sen. Harkin, Tom [D-IA]	D · IA		May 5, 2009
Sen. Rockefeller, John D., IV [D-WV]	D · WV		May 5, 2009
Sen. Inhofe, James M. [R-OK]	R · OK		May 6, 2009
Sen. Lieberman, Joseph I. [ID-CT]	ID · CT		May 6, 2009
Sen. Pryor, Mark L. [D-AR]	D · AR		May 6, 2009
Sen. Begich, Mark [D-AK]	D · AK		May 7, 2009

Committee Activity

Committee	Chamber	Activity	Date
Armed Services Committee	Senate	Reported By	Apr 2, 2009

Subjects & Policy Tags

Policy Area:

Armed Forces and National Security

Related Bills

Bill	Relationship	Last Action
111 HRES 463	Related bill	May 21, 2009: Motion to reconsider laid on the table Agreed to without objection.
111 HR 2101	Related bill	May 13, 2009: Laid on the table. See S.454 for further action.
111 HRES 432	Related bill	May 13, 2009: Motion to reconsider laid on the table Agreed to without objection.
111 HR 1830	Identical bill	Mar 31, 2009: Referred to the House Committee on Armed Services.

Weapon Systems Acquisition Reform Act of 2009 - **Title I: Acquisition Organization** - (Sec. 101) Establishes within the Department of Defense (DOD) a Director of Cost Assessment and Program Evaluation, to act as the principal advisor to the Secretary of Defense and other senior DOD officials and provide independent analysis and advice on matters relating to DOD acquisition program cost estimation and analysis, as well as related defense acquisition matters as assigned by the Secretary. Establishes under such Director a Deputy Director for Cost Assessment and a Deputy Director for Program Evaluation.

Requires the: (1) Director to ensure that DOD cost estimation and cost analysis processes provide accurate information and realistic cost estimates for DOD acquisition programs; and (2) Secretary to ensure that the Director reviews acquisition program cost estimates, cost analyses, and related records for major defense acquisition programs (MDAPs) and major automated information system programs (MAISPs) of the military departments and defense agencies. Authorizes the Director to participate in and approve MDAP and MAISP cost estimates.

Requires the: (1) Director, the Secretary of the military department concerned, and the head of the defense agency concerned to disclose the confidence level used in establishing a baseline estimate for an MDAP or MAISP; and (2) Director to report annually to the Secretary, the Under Secretary of Defense for Acquisition, Technology, and Logistics (Under Secretary), the Under Secretary of Defense (Comptroller), and the congressional defense and appropriations committees on DOD cost estimation and analysis activities.

Transfers to the Office of the Director the functions and personnel of the Cost Analysis Improvement Group and the Office of Program Analysis and Evaluation.

Requires: (1) the Director to review, and report to the Secretary on, existing DOD systems and methods for tracking and assessing MDAP operating and support costs; and (2) such report to be transmitted to the defense and appropriations committees.

(Sec. 102) Establishes: (1) a Director of Developmental Test and Evaluation to advise the Secretary and the Under Secretary on DOD developmental test and evaluation; and (2) a Director of Systems Engineering to advise the Secretary and Under Secretary on DOD systems engineering and development planning. Outlines related duties.

Requires such directors to jointly: (1) report to the defense and appropriations committees on activities undertaken; and (2) issue appropriate guidance with respect to DOD developmental test and evaluation and systems engineering, respectively.

Directs the service acquisition executives of each military department and defense agency with responsibility for a MDAP to: (1) develop and implement plans to ensure that the department or agency has provided appropriate resources for developmental testing and developmental planning and systems engineering; and (2) report to the directors established under this section with respect to such plans and each such director's responsibilities.

(Sec. 103) Directs the Secretary to designate a senior DOD official to conduct and oversee performance assessments and root cause analyses for MDAPs. Outlines related duties. Requires such official to report annually to the defense and appropriations committees on activities undertaken.

(Sec. 104) Requires the Director of Defense Research and Engineering to: (1) periodically review and assess the technological maturity and integration risk of critical technologies of MDAPs, and submit findings to the Under Secretary;

(2) report annually to the Secretary and the defense and appropriations committees on the maturity and risk of such technologies; (3) report to such committees on additional resources required to implement the results of the review and assessment; and (4) develop knowledge-based standards to measure the maturity and risk of critical technologies at key stages in the acquisition process.

(Sec. 105) Directs the Joint Requirements Oversight Council (JROC) to seek and consider input from commanders of combatant commands prior to identifying joint military requirements. Requires the Comptroller General (CG) to report to the defense committees on the implementation of such requirement.

Title II: Acquisition Policy - (Sec. 201) Requires: (1) the Secretary to ensure that mechanisms are developed and implemented to ensure the consideration of tradeoffs among cost, schedule, and performance objectives with respect to DOD acquisition programs; (2) the JROC to ensure such consideration with respect to joint military requirements; (3) the Secretary to ensure that each new joint military requirement recommended by the JROC is reviewed to ensure compliance with the tradeoffs consideration requirement and the JROC requirement to seek and consider input from commanders of combatant commands; and (4) the Director of Cost Assessment and Program Evaluation to lead the development of study guidance for an analysis of alternatives for each joint military requirement for which the JROC Chairman is the validation authority.

(Sec. 202) Directs the Secretary to ensure that the acquisition strategy for each MDAP includes: (1) measures to ensure competition at both the prime contract and subcontract level of the MDAP throughout its life-cycle as a means to improve contractor performance; and (2) adequate documentation of the rationale for selection of the subcontractor tier or tiers. Outlines measures to ensure such competition. Requires the Secretary: (1) to take specified actions to ensure fair and objective "make-buy" decisions by prime contractors on MDAPs; and (2) whenever a decision regarding the source of repair results in a plan to award a contract for performance of maintenance and sustainment of a major weapon system, to ensure that such contract is awarded on a competitive basis with full consideration of all sources.

(Sec. 203) Directs the Secretary to ensure that the acquisition strategy for each MDAP provides for competitive prototypes before Milestone B approval, unless the milestone decision authority (MDA) for that MDAP waives such requirement. Allows the MDA to waive the requirement only on the basis that: (1) the cost of producing competitive prototypes exceeds the expected life-cycle benefits of producing the prototypes; or (2) but for such waiver, DOD would be unable to meet critical national security objectives. Requires: (1) the defense and appropriations committees to be notified within 30 days after such a waiver; (2) the CG to be notified of such a waiver and its rationale; and (3) the CG to review such rationale, and report review results to the defense and appropriations committees.

(Sec. 204) Requires a MDA, within 30 days after receiving notification from a program manager that the MDAP is experiencing cost or schedule delays of 25% or more, to report to the defense and appropriations committees identifying: (1) the root causes of the cost or schedule growth; and (2) appropriate acquisition performance measures for the remainder of the MDAP's development. Requires such report to also include either: (1) a certification of the necessity of the MDAP; or (2) a plan for terminating MDAP development or withdrawing Milestone A or Key Decision Point A approval.

(Sec. 205) Directs a MDA who waives certain program certification requirements normally necessary before Milestone B or Key Decision Point B approval to, at least annually, review that MDAP to determine the extent to which it currently meets the waived requirements. Requires the current certification status of such MDAPs to be included in annual DOD budget justification documents.

Requires a MDA to have received a preliminary design review and conducted a formal post-preliminary design review assessment before the MDAP may receive Milestone B or Key Decision Point B approval.

Directs the MDA, for each MDAP that has not received Milestone C or Key Decision Point C approval, to: (1) determine whether or not the program satisfies specified certification components; and (2) annually review its progress in satisfying such components. Requires the current certification status of such MDAPs to be included in annual DOD budget justification documents.

Directs the official assigned oversight of performance assessment, with respect to MDAPs that are restructured after experiencing critical cost growth and certified as necessary to continue, to annually review and assess the MDAP's success in achieving adequate program performance.

(Sec. 206) Directs the Secretary, if the acquisition or procurement unit cost of an MDAP or designated major subprogram increases by a percentage equal to or greater than the critical cost growth threshold for the program or subprogram, to: (1) determine the root causes for the cost growth; and (2) terminate the program, unless the Secretary notifies Congress of the decision not to terminate. Allows such a program or subprogram to be continued only under limited conditions, including a certification that the program is essential to national security and there are no alternatives which will provide acceptable military capability at less cost. Allows a program to be restructured in a manner that addresses the root causes of the critical cost growth. Provides that when a program is restructured, the next Selected Acquisition Report for the program after the restructuring shall contain a description of all funding changes made in the budget as a result of the program's cost growth. Requires the Secretary to report to Congress on terminated programs.

(Sec. 207) Directs the Secretary to revise the Defense Supplement to the Federal Acquisition Regulation to provide guidance and tighten existing requirements concerning organizational conflicts of interest by contractors in MDAPs. Requires the Panel on Contracting Integrity (established under the John Warner National Defense Authorization Act for Fiscal Year 2007) to present recommendations to the Secretary on measures to eliminate or mitigate organizational conflicts of interest in MDAPs. Directs the Panel to continue to serve until at least the end of 2011.

Title III: Additional Acquisition Provisions - (Sec. 301) Requires the Secretary to carry out a program to recognize excellent performance by individuals and teams of members of the Armed Forces and civilian DOD personnel in the acquisition of products and services. Authorizes cash bonuses as part of the program.

(Sec. 302) Amends the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 to require additional discussions and recommendations within a required report from the Secretary to the defense committees on DOD implementation of earned value management.

(Sec. 303) Includes as a national security objective of the national technology and industrial base maintaining critical design skills to ensure that the Armed Forces are provided with systems capable of ensuring technological superiority over potential adversaries. Requires periodic defense capability assessments to consider the effects of the termination of MDAPs.

(Sec. 304) Requires the CG to report to the defense and appropriations committees on: (1) growth in operating and support costs for major weapon systems; and (2) the results of a review of weaknesses in operations affecting the reliability of financial information on systems and assets to be acquired under MDAPs.

Actions Timeline

- **May 22, 2009:** Signed by President.
- **May 22, 2009:** Became Public Law No: 111-23.
- **May 21, 2009:** Mr. Skelton brought up conference report H. Rept. 111-124 for consideration under the provisions of H. Res. 463. (consideration: CR H5907-5912)
- **May 21, 2009:** DEBATE - The House proceeded with 1 hour of debate on the conference report to accompany S. 454.
- **May 21, 2009:** The previous question was ordered pursuant to the rule. (consideration: CR H5912)
- **May 21, 2009:** Conference report agreed to in House: On agreeing to the conference report Agreed to by the Yeas and Nays: 411 - 0 (Roll no. 286).(consideration: CR H5912)
- **May 21, 2009:** On agreeing to the conference report Agreed to by the Yeas and Nays: 411 - 0 (Roll no. 286). (consideration: CR H5912)
- **May 21, 2009:** Motions to reconsider laid on the table Agreed to without objection.
- **May 21, 2009:** Cleared for White House.
- **May 21, 2009:** Presented to President.
- **May 20, 2009:** Conference report filed: Conference report H. Rept. 111-124 filed.(text of conference report: CR H5795-5805)
- **May 20, 2009:** Conference report H. Rept. 111-124 filed. (text of conference report: CR H5795-5805)
- **May 20, 2009:** Conference papers: Senate report and manager's statement and official papers held at the desk in Senate.
- **May 20, 2009:** Conference report considered in Senate. (consideration: CR S5683-5685)
- **May 20, 2009:** Conference report agreed to in Senate: Senate agreed to conference report by Yea-Nay Vote. 95 - 0. Record Vote Number: 197.
- **May 20, 2009:** Senate agreed to conference report by Yea-Nay Vote. 95 - 0. Record Vote Number: 197.
- **May 20, 2009:** Message on Senate action sent to the House.
- **May 19, 2009:** Conference committee actions: Conferees agreed to file conference report.
- **May 19, 2009:** Conferees agreed to file conference report.
- **May 15, 2009:** Message on Senate action sent to the House.
- **May 14, 2009:** Message on House action received in Senate and at desk: House amendment to Senate bill and House requests a conference.
- **May 14, 2009:** Senate disagreed to House amendment, agreed to request for conference, and appointed conferees. Levin; Kennedy; Byrd; Lieberman; Reed; Akaka; Nelson FL; Nelson NE; Bayh; Webb; McCaskill; Udall CO; Hagan; Begich; Burris; McCain; Inhofe; Sessions; Chambliss; Graham; Thune; Martinez; Wicker; Burr; Vitter; Collins. (consideration: CR S5495-5496)
- **May 13, 2009:** Consideration initiated pursuant to H.Res. 432.
- **May 13, 2009:** Considered pursuant to H.Res. 432. (consideration: CR H5539-5549, H5549-5550; text of measure as received in House: CR H5539-5549)
- **May 13, 2009:** The House struck all after the enacting clause and inserted in lieu thereof the provisions of a similar measure H.R. 2101 pursuant to H. Res. 432.
- **May 13, 2009:** Passed/agreed to in House: On passage Passed pursuant to H. Res. 432.
- **May 13, 2009:** On passage Passed pursuant to H. Res. 432.
- **May 13, 2009:** Pursuant to H. Res. 432, the House insisted on its amendment and requested a conference. (consideration: CR H5549-5550)
- **May 13, 2009:** On motion that the House insist upon its amendment, and request a conference Agreed to without objection.
- **May 13, 2009:** The Speaker appointed conferees: Skelton, Spratt, Ortiz, Taylor, Abercrombie, Reyes, Snyder, Smith (WA), Sanchez, Loretta, McIntyre, Tauscher, Brady (PA), Andrews, Davis (CA), Langevin, Cooper, Ellsworth, Sestak, McHugh, Bartlett, McKeon, Thornberry, Jones, Akin, Forbes, Miller (FL), Wilson (SC), Conaway, Hunter, and Coffman (CO).
- **May 13, 2009:** Mr. Skelton moved that the House authorize conferees to close meetings. (consideration: CR H5550)
- **May 13, 2009:** On motion to authorize conferees to close meetings Agreed to by the Yeas and Nays: 409 - 11 (Roll no. 254).
- **May 13, 2009:** Motion to reconsider laid on the table Agreed to without objection.

- **May 7, 2009:** Considered by Senate. (consideration: CR S5256-5267)
- **May 7, 2009:** The committee substitute as amended agreed to by Unanimous Consent.
- **May 7, 2009:** Passed/agreed to in Senate: Passed Senate with an amendment by Yea-Nay Vote. 93 - 0. Record Vote Number: 186.(text: CR S5260-5266)
- **May 7, 2009:** Passed Senate with an amendment by Yea-Nay Vote. 93 - 0. Record Vote Number: 186. (text: CR S5260-5266)
- **May 7, 2009:** Received in the House.
- **May 7, 2009:** Message on Senate action sent to the House.
- **May 7, 2009:** Held at the desk.
- **May 6, 2009:** Measure laid before Senate by unanimous consent. (consideration: CR S5205-5225; text of measure as reported in Senate: CR S5205-5209)
- **Apr 2, 2009:** Committee on Armed Services. Ordered to be reported with an amendment favorably.
- **Apr 2, 2009:** Committee on Armed Services. Reported by Senator Levin with an amendment in the nature of a substitute. Without written report.
- **Apr 2, 2009:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 45.
- **Mar 3, 2009:** Committee on Armed Services. Hearings held. Hearings printed: S.Hrg. 111-149.
- **Feb 23, 2009:** Introduced in Senate
- **Feb 23, 2009:** Sponsor introductory remarks on measure. (CR S2366-2368)
- **Feb 23, 2009:** Read twice and referred to the Committee on Armed Services.