

Deep Dive Analysis of Section 101 of the Forged Act: Streamlining Defense Acquisition

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Introduction: The Imperative for Defense Acquisition Reform

The defense acquisition process has long been characterized by significant challenges, including protracted timelines, substantial cost overruns, and bureaucratic complexities that can impede the timely deployment of critical military capabilities. These inefficiencies have prompted numerous legislative and policy reform efforts over the years, aimed at enhancing the speed, efficiency, and effectiveness of how the Department of Defense (DoD) acquires goods and services. The rationale behind these continuous efforts stems from the need to adapt to evolving global threats, leverage technological advancements, and ensure responsible stewardship of taxpayer resources. Past reform initiatives, while often well-intentioned, have sometimes fallen short of their objectives due to the sheer complexity of the acquisition landscape and the accumulation of layers of regulations and statutes over time.

The Forged Act represents the latest legislative endeavor to address these persistent challenges. Within this broader legislative framework, Section 101 specifically targets the repeal of what are deemed to be outdated and inefficient laws that have accumulated over decades. The central aim of this section is to reduce bureaucratic complexity and accelerate procurement timelines by removing legal impediments that are perceived to no longer serve their intended purpose or have become counterproductive in the current environment. Given the scope and potential impact of such a wholesale repeal of defense acquisition legislation, a comprehensive and in-depth analysis is crucial to understanding the potential benefits, risks, and long-term implications for the defense sector. This report undertakes such an analysis, drawing upon available research material to deconstruct Section 101 and evaluate its potential effects.

Deconstructing Section 101: Repealing the Old Guard

To understand the potential impact of Section 101 of the Forged Act, it is essential to first categorize and analyze the types of legislation being repealed. By examining the provided research snippets, several recurring themes and functional categories emerge, offering valuable insights into the focus and scope of this repeal effort.

- **National Defense Authorization Act (NDAA) Specific Provisions:** A significant

number of the repealed sections originate from various fiscal year National Defense Authorization Acts.¹ The NDAA serves as the primary legislative vehicle for shaping defense policy and authorizing appropriations for the DoD.¹ The frequent inclusion of NDAA sections in the repeal list suggests a continuous process of legislative adjustments to defense policy and acquisition practices. Over time, specific provisions enacted within these annual bills may become outdated, redundant, or even create unintended obstacles to efficient acquisition. The repeal of these sections could indicate a desire to streamline the legal framework by removing temporary measures, provisions addressing specific short-term concerns that are no longer relevant, or policies that have proven ineffective over time. This action may also aim to reduce the accumulation of potentially conflicting or overlapping requirements enacted across different fiscal years, contributing to a more coherent and simplified legal environment for defense acquisition.

- **Focus on Specific Program Requirements or Weapon Systems:** Some repealed sections appear to target particular defense programs or types of military equipment.⁹ For instance, Public Law 109-364, Section 130, mandated the establishment of a quality control policy for the procurement, modification, repair, and overhaul of ship critical safety items.⁹ Similarly, Public Law 108-136, Section 802, defined "aviation critical safety item" and established processes for their identification and procurement.¹⁰ Public Law 105-261, Section 806, concerned the procurement of conventional ammunition.¹¹ The repeal of such specific requirements might signal a move towards broader, more flexible acquisition policies, granting the DoD greater discretion in managing these critical areas. Congress might have initially felt the need to legislate specific requirements due to identified risks or concerns related to particular programs or systems. The current repeal could reflect a belief that the DoD has since matured its internal processes and oversight in these areas, or that a more general approach is now deemed sufficient. However, this shift also raises important questions about the potential loss of tailored oversight and the need to ensure that safety and effectiveness are not compromised in the absence of these specific legislative mandates.
- **Regulations and Guidance on Acquisition Policy and Procedures:** Several repealed sections relate to the statutory basis for the creation or amendment of key acquisition regulations and guidance.¹³ For example, Public Law 109-163, Section 816, required the DoD to prescribe guidance on the use of tiered evaluation of offers, including a stipulation for market research to ensure sufficient competition.¹⁵ Public Law 108-136, Section 805, aimed to ensure consideration of small business opportunities in contract consolidation

decisions.¹⁴ Public Law 107-314, Section 817, mandated an annual report on commercial item exceptions to the Truth in Negotiations Act (TINA).¹⁶ Public Law 104-106, Section 822, known as the Clinger-Cohen Act, focused on reforming acquisition laws and information technology management.¹³ The repeal of the underlying statutory authority for these regulations suggests a potential desire to either eliminate the specific policy altogether or to revise and reissue the guidance under different, potentially more flexible, authorities. These laws often established specific rules and procedures for how the DoD conducts procurement. Their repeal could indicate a move towards greater reliance on internal DoD policies and less on statutory mandates, which might increase agility but also necessitates strong internal governance and oversight mechanisms.

- **Temporary or Expired Authorities and Reporting Requirements:** Some of the repealed sections might pertain to temporary programs with sunset clauses or required specific reports that are no longer considered necessary.²³ For instance, Public Law 109-364, Section 812, repealed several obsolete defense acquisition laws, many of which had already been completed or had expired.²³ The repeal of such provisions is a logical step in streamlining the legal framework, removing requirements that are no longer applicable and reducing unnecessary administrative burden. Laws with sunset clauses are intended to be temporary, and their formal repeal simply acknowledges their non-operational status, contributing to a cleaner and more relevant legal landscape.
- **Miscellaneous Provisions with Indirect Impact on Acquisition:** Section 101 may also include the repeal of various other defense-related laws that have an indirect impact on the acquisition process.²⁴ The diversity of this category suggests a comprehensive effort to remove a wide range of potentially outdated or inefficient defense-related laws, extending beyond just core acquisition processes. This broad sweep indicates an intention to modernize the entire legal framework surrounding defense, recognizing that various aspects of defense policy and operations can influence how acquisition is conducted.

To provide a clearer overview, the following table categorizes some of the repealed legislation based on the analysis of the research snippets:

Table 1: Categorization and Initial Analysis of Repealed Legislation (Illustrative)

Public Law and Section Number	Short Title or Subject Area	Primary Category	Brief Summary of Original Purpose	Initial Assessment of Potential Impact of
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				Repeal
PL 104-106, Sec. 822	Clinger-Cohen Act	Acquisition Policy	Reform acquisition laws and IT management	Potential shift in IT acquisition approach, reduced emphasis on strategic planning
PL 108-136, Sec. 805	Small Business Opportunities	Acquisition Policy	Ensure small business consideration in contract consolidation	Potential reduction in small business opportunities
PL 109-364, Sec. 130	Ship Critical Safety Items	Specific Program Requirement	Establish quality control policy for ship safety items	Concerns about maintaining safety standards
PL 107-314, Sec. 817	TINA Exception Reporting	Acquisition Policy	Annual report on commercial item TINA exceptions	Reduced transparency in contract negotiations
PL 109-163, Sec. 816	Tiered Evaluation of Offers	Acquisition Policy	Guidance on using tiered evaluation, requiring market research	Increased flexibility, potential for unfairness
PL 105-261, Sec. 806	Procurement of Ammunition	Specific Program Requirement	Standardized approach for evaluating ammunition procurements	Potential for changes in ammunition procurement processes
PL 107-314, Sec. 133	Common Supply/Service Activities	Miscellaneous	Allow single agency to perform common activities	Potential for increased efficiency in shared services

This table provides an illustrative categorization based on the available snippets. A complete analysis would require the full list of repealed codes from Section 101 of the Forged Act.

Deep Dive into Key Repealed Sections

To gain a deeper understanding of the potential ramifications of Section 101, it is crucial to examine the original purpose and intended impact of some of the key repealed sections in more detail. Based on the frequency of reference in the snippets and the breadth of their subject matter, the following sections warrant a closer look:

- **Public Law 104-106, Section 822 (Clinger-Cohen Act):** Enacted as part of the National Defense Authorization Act for Fiscal Year 1996¹³, this section aimed to reform acquisition laws and information technology management within the DoD.¹³ A significant component of this law was the Federal Financial Management Improvement Act of 1996 (FFMIA)²¹, which sought to ensure that federal financial management systems provide accurate, reliable, and timely financial information to government managers.²¹ Compliance with FFMIA was intended to provide a basis for the continuing use of reliable financial data by program managers, the President, Congress, and the public.²¹ The repeal of this foundational act suggests a potentially major shift in how the DoD approaches IT acquisition and financial accountability. The Clinger-Cohen Act emphasized strategic planning and performance-based IT acquisition. Its removal could raise concerns about the potential for less disciplined and more fragmented IT investments in the future, unless robust alternative mechanisms are established to ensure effective oversight and management of the DoD's significant IT spending.
- **Public Law 108-136, Section 805:** This section of the National Defense Authorization Act for Fiscal Year 2004 focused on ensuring that decisions regarding the consolidation of contract requirements adequately consider opportunities for small business concerns to participate in DoD procurements as prime contractors and subcontractors.¹⁴ The objective was to prevent the unintentional exclusion of small businesses when the DoD decided to bundle or consolidate contracts for greater efficiency.¹⁴ The repeal of this section directly impacts the emphasis on small business participation in defense contracting. It could signal a prioritization of efficiency through larger, consolidated contracts, potentially at the expense of opportunities for small businesses. This change could lead to a reduction in contracting opportunities for small businesses, which might negatively impact innovation and competition within the defense industrial base, particularly if not accompanied by alternative support mechanisms or

policies aimed at fostering small business participation.

- **Public Law 109-364, Section 130:** Enacted as part of the John Warner National Defense Authorization Act for Fiscal Year 2007³, this section mandated the establishment of a quality control policy for the procurement, modification, repair, and overhaul of ship critical safety items.⁹ These items were defined as any ship part, assembly, or support equipment whose failure could cause a catastrophic or critical failure resulting in loss of or serious damage to the ship, or an unacceptable risk of personal injury or loss of life.⁹ The repeal of this safety-focused legislation raises significant concerns about how the quality and reliability of critical ship components will be ensured moving forward. While the DoD likely has internal regulations and standards concerning the quality control of naval equipment, the removal of a specific statutory mandate in this area necessitates a clear understanding of these existing mechanisms and whether they provide an equivalent level of assurance. There is a potential risk of reduced safety oversight if the repeal is not carefully managed and if robust alternative measures are not in place to guarantee the integrity of ship critical safety items.
- **Public Law 107-314, Section 817:** Section 817 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 required the Secretary of Defense to transmit annually to the congressional defense committees a report on commercial item exceptions and exceptional case exceptions to the Truth in Negotiations Act (TINA).¹⁶ TINA generally requires contractors to submit cost or pricing data during contract negotiations, but exceptions exist for commercial items and in exceptional circumstances. This reporting requirement aimed to provide transparency to Congress regarding when and why the DoD was not requiring such detailed cost data. The repeal of this reporting requirement reduces administrative burden for the DoD but also diminishes congressional visibility into how and when the department deviates from standard price negotiation procedures when acquiring commercial items. This removal of a transparency measure could lead to concerns about potential over-reliance on TINA exceptions without adequate congressional oversight, potentially impacting the cost-effectiveness of defense acquisitions.
- **Public Law 109-163, Section 816:** This section of the National Defense Authorization Act for Fiscal Year 2006 required the DoD to prescribe guidance on the use of tiered evaluation of offers for contracts and task or delivery orders.¹⁵ The guidance was mandated to include a prohibition on the use of tiered evaluation unless the contracting officer had conducted market research and was unable to determine whether a sufficient number of qualified sources would be available to compete for the contract.¹⁵ Tiered evaluation involves establishing certain criteria that offerors must meet to be considered for further evaluation.

The intent of Section 816 was to prevent the premature narrowing of the competitive field unless justified by a lack of sufficient competition. The repeal of this section could provide the DoD with greater flexibility in using tiered evaluations, potentially speeding up the selection process. However, it also raises concerns about fairness and equal opportunity for all bidders, especially smaller or less established companies that might not meet the initial tier criteria, even if they could offer a superior overall solution or value.

The Promise of Streamlining: Expected Contributions of Section 101

The repeal of these and other outdated laws through Section 101 of the Forged Act is expected to contribute to several key objectives aimed at streamlining the defense acquisition process:

- **Reduced Administrative Burden:** The elimination of reporting requirements, such as the annual report on TINA exceptions mandated by Public Law 107-314, Section 817¹⁶, is expected to reduce the administrative workload for the DoD and potentially for defense contractors as well. Similarly, less stringent rules regarding the consideration of small businesses in contract consolidation decisions, following the repeal of Public Law 108-136, Section 805¹⁴, might simplify the planning and execution of larger procurements. The potential for more flexible evaluation processes, stemming from the repeal of Public Law 109-163, Section 816¹⁵, could also reduce the need for extensive justifications and documentation related to the use of tiered evaluations. While reducing administrative burden is a stated goal, it is crucial to consider whether the repealed requirements provided essential value in terms of oversight, transparency, or ensuring a level playing field. The net impact on overall efficiency needs careful assessment, as streamlining should not come at the cost of accountability or the loss of valuable information that informed decision-making.
- **Accelerated Procurement Timelines:** The removal of specific procedural requirements and limitations embedded in the repealed laws is anticipated to expedite the acquisition process. For instance, less emphasis on extensive market research before using tiered evaluations, as a result of repealing Public Law 109-163, Section 816¹⁵, might shorten the initial stages of procurement. Similarly, greater flexibility in consolidating contracts, following the repeal of Public Law 108-136, Section 805¹⁴, could potentially lead to faster contracting for larger requirements. While faster timelines are crucial for rapidly fielding necessary capabilities, the analysis should explore whether the repealed regulations were critical for ensuring due diligence, fair competition, and the selection of the best value solutions. Speed should not compromise the quality, effectiveness, or

affordability of acquired goods and services, and the repealed regulations might have served important purposes in ensuring these aspects.

- **Enhanced Flexibility:** The repeal of prescriptive laws, such as Public Law 109-364, Section 130, concerning quality control for ship critical safety items ⁹, and potentially less stringent IT acquisition rules following the repeal of aspects of the Clinger-Cohen Act (Public Law 104-106, Section 822) ¹³, could provide the DoD with greater autonomy to adapt to evolving technological landscapes and strategic priorities. Increased flexibility can be beneficial in a rapidly changing environment, allowing the DoD to be more agile in its acquisition strategies. However, it necessitates robust internal controls and accountability mechanisms to prevent potential misuse or unintended negative outcomes. While flexibility allows for agility, it also increases the responsibility on DoD leadership to make sound decisions without the specific guidance of the repealed legislation.
- **Increased Innovation and Competition:** It is argued that some of the repealed laws might have inadvertently hindered participation from a wider range of contractors, including innovative companies. For example, specific requirements related to certain programs or the emphasis on detailed reporting might have created barriers for smaller or non-traditional defense contractors. The repeal of Public Law 108-136, Section 805 ¹⁴, concerning small business opportunities in contract consolidation, might be viewed as potentially impacting competition negatively for small businesses. The overall impact on innovation and competition is complex. While some repeals might remove barriers for certain types of contractors, others could create new challenges or disadvantages. A nuanced analysis is required to determine the net effect on the defense industrial base.

Navigating the Potential Pitfalls: Negative Impacts and Mitigation

While Section 101 aims to streamline defense acquisition, the repeal of established laws carries potential negative impacts that must be carefully considered.

- **Reduced Oversight:** The repeal of reporting requirements, such as the annual report on TINA exceptions (Public Law 107-314, Section 817) ¹⁶, and specific procedural mandates, like those concerning ship critical safety items (Public Law 109-364, Section 130) ⁹, could lead to decreased congressional and public scrutiny of defense acquisition activities. The removal of these oversight mechanisms raises concerns about the potential for increased costs, reduced accountability, and erosion of public trust in defense spending. Transparency and reporting requirements are fundamental to ensuring that public funds are used effectively and ethically. Their removal necessitates careful consideration of the potential consequences.

- **Decreased Transparency:** The repeal of laws requiring specific justifications or considerations, such as for contract consolidation considering small businesses (Public Law 108-136, Section 805)¹⁴, might make the acquisition process less transparent to stakeholders, potentially hindering informed participation and scrutiny. Reduced transparency can create an environment where potential inefficiencies or unfair practices might go unnoticed, undermining the integrity of the acquisition process. Openness in acquisition processes allows for better understanding by industry, Congress, and the public, fostering accountability and trust.
- **Impacts on Specific Stakeholders:** The repeal of certain laws could disproportionately affect specific stakeholders. For instance, the repeal of Public Law 108-136, Section 805¹⁴, is likely to negatively impact small businesses by potentially reducing their contracting opportunities. Similarly, the repeal of quality control mandates for critical safety items (Public Law 109-364, Section 130)⁹ could raise concerns among those focused on ensuring the safety and reliability of military equipment.

The likelihood and severity of these risks depend on the specific laws being repealed and the existence and effectiveness of alternative oversight mechanisms and internal DoD regulations. If the Forged Act or related policy documents propose specific mitigation strategies, their potential to compensate for the reduced oversight and transparency will be critical. For example, if new DoD regulations are intended to address the quality control of ship critical safety items previously mandated by law, the specificity and rigor of these regulations will determine their effectiveness. Simply stating an intention to provide alternative oversight or guidance is not enough. The specifics of these measures and the commitment to their effective implementation are crucial to mitigating the potential negative consequences of the repeals.

Voices of Concern: Understanding Stakeholder Opposition

The wholesale repeal of defense acquisition laws through Section 101 is likely to generate opposition from various stakeholders who have vested interests in the defense acquisition process. Understanding their rationale is crucial for a comprehensive analysis.

- **Congressional Committees:** Congressional committees with oversight responsibilities for defense spending and policy are likely to express concerns about the potential loss of specific oversight tools resulting from the repeal of laws like Public Law 107-314, Section 817¹⁶, which mandated reporting on TINA exceptions. They may view the repeals as an infringement on their constitutional

responsibilities and a potential weakening of their ability to shape defense policy and ensure accountability in defense spending.

- **Contractors:** The reaction from defense contractors is likely to be mixed. Large contractors might generally favor streamlining efforts that could potentially lead to faster and less bureaucratic procurement processes. However, concerns could arise if the repeals lead to instability or uncertainty in the overall acquisition framework. Small businesses, on the other hand, are highly likely to oppose repeals that could reduce their contracting opportunities, such as the repeal of Public Law 108-136, Section 805¹⁴, which specifically aimed to protect their participation in defense procurements.
- **Advocacy Groups:** Advocacy groups focused on government transparency and accountability are expected to voice opposition to the repeal of laws that provided safeguards in these areas. The repeal of reporting requirements (e.g., on TINA exceptions) and specific oversight mandates are likely to be met with concern, as these groups often play a crucial role in holding the government accountable and ensuring responsible use of taxpayer funds.
- **Small Business Advocates:** Organizations and advocates specifically representing the interests of small businesses are highly likely to oppose the repeal of laws like Section 805 of Public Law 108-136¹⁴, which was explicitly designed to protect and promote small business participation in defense contracting. They will likely argue that the repeal could lead to a decrease in opportunities for small businesses, potentially harming innovation and competition within the defense industrial base.
- **Auditors (e.g., Government Accountability Office - GAO):** Government auditors, such as the GAO, whose role is to ensure the efficiency and effectiveness of government programs, are likely to raise concerns about the potential for increased inefficiencies, waste, and fraud if reduced oversight and transparency measures resulting from the repeals are not adequately replaced by robust internal controls and alternative oversight mechanisms.

The opposition from these stakeholders is rooted in concerns about maintaining accountability, transparency, and a level playing field within the defense acquisition process. Their objections are directly linked to the specific laws being repealed and the potential consequences for their respective interests and the overall integrity of the defense acquisition system.

Measuring Success: Feasibility of Achieving Stated Goals

The feasibility of achieving the stated measures of success for Section 101—procurement timeline reduction, administrative cost savings, and increased

competition—based on the scope and nature of the repealed legislation requires careful consideration.

- **Procurement Timeline Reduction:** While the repeal of certain procedural requirements embedded in laws like Public Law 109-163, Section 816¹⁵, concerning tiered evaluations, might offer some marginal time savings in the initial stages of procurement, a significant reduction in overall procurement timelines might necessitate addressing more fundamental systemic issues. Factors such as the complexity of modern weapon systems, the length of the requirements definition process, funding cycles, and the time required for testing and evaluation often play a more dominant role in determining the overall duration of the acquisition process. Therefore, the impact of these specific repeals on achieving substantial procurement timeline reductions might be limited if these other underlying challenges are not also addressed.
- **Administrative Cost Savings:** The elimination of reporting requirements, such as those mandated by Public Law 107-314, Section 817¹⁶, will likely result in some administrative cost savings for the DoD. However, the actual magnitude of these savings in relation to the overall defense budget might be relatively small. Furthermore, it is essential to weigh these potential cost savings against the value of the information and oversight that was provided by these repealed requirements. If the lost information or oversight leads to less efficient or more costly acquisitions in the long run, the net benefit of the administrative cost savings could be questionable.
- **Increased Competition:** The relationship between the repealed laws and the level of competition in defense contracting is complex. While some repeals might remove specific procedural hurdles that could have inadvertently limited participation, such as potentially in the area of tiered evaluations (Public Law 109-163, Section 816)¹⁵, other repeals, like that of Public Law 108-136, Section 805¹⁴, which aimed to protect small business opportunities, could potentially lead to decreased competition by favoring larger, consolidated contracts. Increasing competition in defense contracting requires addressing various barriers to entry, fostering an environment where a diverse range of companies can effectively participate, and actively promoting outreach to non-traditional defense contractors. The impact of these specific repeals on this broader goal needs careful and ongoing evaluation.

Exploring Alternatives: A Comparative Analysis

Compared to the wholesale repeal implemented by Section 101, alternative approaches to defense acquisition reform offer different sets of advantages and

disadvantages:

- **Gradual Phase-Out:** This approach would involve repealing outdated laws incrementally, allowing for careful monitoring of the impact of each repeal before moving on to the next.
 - **Advantages:** Provides an opportunity to learn from each repeal, make necessary adjustments, and develop effective replacement mechanisms before widespread implementation. It reduces the risk of unintended negative consequences that might arise from a sudden, comprehensive repeal.
 - **Disadvantages:** The pace of reform would be slower, and potential inefficiencies associated with the outdated laws might persist for a longer period.
- **Pilot Programs:** This approach would involve selecting specific areas or programs to test the effects of repealing certain laws or implementing new streamlined processes on a smaller scale before applying them across the entire defense acquisition system.
 - **Advantages:** Allows for data-driven evaluation of the proposed changes, enabling adjustments based on empirical evidence before a full-scale implementation. It helps to mitigate risks associated with widespread changes.
 - **Disadvantages:** The results from pilot programs might not always be generalizable to the entire defense acquisition system due to the unique characteristics of the pilot programs. Setting up and evaluating pilot programs can also be time-consuming.
- **Targeted Regulatory Changes:** This approach would focus on revising or updating existing DoD regulations and guidance to address specific problem areas within the acquisition process, rather than repealing the underlying statutory authority in a wholesale manner.
 - **Advantages:** Allows for a more precise and nuanced approach to reform, targeting specific inefficiencies without causing broad disruptions to the legal framework. It can be more adaptable to evolving needs and circumstances.
 - **Disadvantages:** Requires a very thorough understanding of the root causes of inefficiencies and might not be effective in addressing systemic issues that are deeply embedded in the existing statutory framework.

In comparison to the wholesale repeal of Section 101, these alternative approaches offer a more cautious and incremental path to reform. While Section 101 promises a rapid and comprehensive streamlining of the legal landscape, it also carries a higher risk of unintended negative consequences due to the simultaneous removal of numerous established laws. The more incremental approaches prioritize learning and

adaptation but might be slower in achieving the desired level of reform. The choice between these approaches involves a trade-off between the speed and comprehensiveness of change and the potential risks and the ability to make adjustments along the way.

Conclusion: Charting the Course of Defense Acquisition

Section 101 of the Forged Act represents a significant effort to streamline defense acquisition by repealing numerous laws deemed outdated or inefficient. This analysis reveals that the repealed legislation spans various categories, including NDAA provisions, specific program requirements, acquisition policy regulations, temporary authorities, and miscellaneous defense-related statutes. The expected benefits of this wholesale repeal include reduced administrative burden, accelerated procurement timelines, enhanced flexibility for the DoD, and potentially increased innovation and competition within the defense industrial base.

However, the repeal also carries potential risks, notably reduced oversight from Congress and the public, decreased transparency in the acquisition process, and potential negative impacts on specific stakeholders, particularly small businesses. Concerns from congressional committees, contractors, advocacy groups, small business advocates, and auditors are likely to arise from these potential downsides, particularly concerning the loss of specific oversight mechanisms and protections.

The feasibility of achieving the stated measures of success—procurement timeline reduction, administrative cost savings, and increased competition—based solely on these repeals is uncertain. While some marginal gains might be realized, significant improvements in these areas likely require addressing broader systemic challenges within the defense acquisition system. Alternative approaches to reform, such as gradual phase-outs, pilot programs, and targeted regulatory changes, offer more incremental and potentially less risky paths to achieving similar goals.

Ultimately, the success of Section 101 will depend heavily on the DoD's ability to implement effective alternative oversight mechanisms, develop comprehensive new regulations and guidance to replace the functions of key repealed laws, and continuously monitor the impact of these changes. A balanced approach that acknowledges both the potential benefits and the inherent risks of such a large-scale repeal is crucial for charting a successful course for the future of defense acquisition.

Recommendations:

To maximize the benefits of Section 101 while mitigating potential risks, the following

recommendations are offered:

- **Prioritize the Development and Implementation of New Regulations:** The DoD should immediately prioritize the development and implementation of clear, comprehensive, and robust new regulations and guidance to address the areas previously covered by the repealed legislation, particularly those concerning safety (e.g., ship critical safety items), oversight (e.g., TINA exceptions), and small business opportunities. These new regulations should be developed in consultation with relevant stakeholders.
- **Strengthen Internal Oversight Mechanisms:** Given the reduction in statutory mandates and reporting requirements, the DoD must strengthen its internal oversight bodies and ensure their independence, authority, and resources are sufficient to provide effective checks and balances in the acquisition process.
- **Enhance Congressional Oversight Through Alternative Reporting:** To compensate for the loss of specific statutory reporting requirements, the DoD should proactively engage with congressional committees to establish alternative reporting mechanisms that provide the necessary transparency and allow for continued legislative oversight of key acquisition activities.
- **Conduct Rigorous Post-Implementation Reviews:** The DoD and relevant oversight bodies should conduct thorough and ongoing evaluations of the actual impact of Section 101 on procurement timelines, administrative costs, competition, and other relevant metrics. These reviews should inform any necessary adjustments to policies and regulations.
- **Engage with All Stakeholders:** The DoD should establish and maintain open channels of communication with all stakeholders, including defense contractors of all sizes, advocacy groups, and congressional committees, to address their concerns, gather feedback on the implementation of Section 101, and ensure that the reforms are achieving their intended goals without unintended negative consequences.
- **Consider Targeted Legislative Adjustments if Necessary:** If the post-implementation reviews reveal significant unintended negative consequences or areas where the repealed legislation provided essential safeguards, policymakers should be prepared to consider targeted legislative adjustments to address these issues.

Works cited

1. crsreports.congress.gov, accessed April 1, 2025, <https://crsreports.congress.gov/product/pdf/IF/IF10515#:~:text=The%20National%20Defense%20Authorization%20Act,and%20other%20defense%2Drelated%20activities>.

2. Public Law 108 - 375 - Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 - Content Details - - GovInfo, accessed April 1, 2025, <https://www.govinfo.gov/app/details/PLAW-108publ375>
3. Public Law 109 - 364 - John Warner National Defense Authorization Act for Fiscal Year 2007 - Content Details - - GovInfo, accessed April 1, 2025, <https://www.govinfo.gov/app/details/PLAW-109publ364>
4. NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006 - Congress.gov, accessed April 1, 2025, <https://www.congress.gov/109/plaws/publ163/PLAW-109publ163.pdf>
5. Public Law 109-364 109th Congress An Act - GovInfo, accessed April 1, 2025, <https://www.govinfo.gov/link/plaw/109/public/364>
6. Legislation - Senate Intelligence Committee, accessed April 1, 2025, <https://www.intelligence.senate.gov/legislation/national-defense-authorization-act-fiscal-year-2008>
7. Public Law 106 - 398 - Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 - Content Details - - GovInfo, accessed April 1, 2025, <https://www.govinfo.gov/app/details/PLAW-106publ398>
8. Public Law 100-180 100th Congress An Act, accessed April 1, 2025, <https://www.congress.gov/100/statute/STATUTE-101/STATUTE-101-Pg1019.pdf>
9. FR Doc E8-173 - Office of the Under Secretary of Defense for Acquisition and Sustainment, accessed April 1, 2025, <https://www.acq.osd.mil/dpap/dars/dfars/changenotice/2008/20080110/E8-173.htm>
10. View Rule - Reginfo.gov, accessed April 1, 2025, <https://www.reginfo.gov/public/do/eAgendaViewRule?publd=201104&RIN=0750-AG92>
11. Ammunition Industrial Base Assessment Tool in Support of Public Law 105-261, Section 806, accessed April 1, 2025, <https://apps.dtic.mil/sti/citations/AD1080340>
12. 10 U.S. Code § 8062 - United States Navy: composition; functions, accessed April 1, 2025, <https://www.law.cornell.edu/uscode/text/10/8062>
13. Clinger-Cohen Act - FISMA Center, accessed April 1, 2025, <https://www.fismacenter.com/Clinger%20Cohen.pdf>
14. DCN20040917 | Acquisition.GOV, accessed April 1, 2025, <https://www.acquisition.gov/reg-change-notice/dcn20040917>
15. Defense Federal Acquisition Regulation Supplement; Limitations on Tiered Evaluation of Offers (DFARS Case 2006-D009), accessed April 1, 2025, <https://www.federalregister.gov/documents/2006/09/08/E6-14896/defense-federal-acquisition-regulation-supplement-limitations-on-tiered-evaluation-of-offers-dfars>
16. JUL 0 5 2007 - Executive Services Directorate, accessed April 1, 2025, https://www.esd.whs.mil/Portals/54/Documents/FOID/Reading%20Room/Other/10-F-0975_FY2006_TINA_report_to_Congress.pdf
17. One Hundred Third Congress of the United States of America, accessed April 1, 2025, <https://www.congress.gov/103/bills/s2182/BILLS-103s2182enr.pdf>
18. Sectional Analysis - DoD General Counsel, accessed April 1, 2025,

- <https://ogc.osd.mil/Portals/99/June29-Sectional.pdf>
19. SUBPART 237.1 SERVICE CONTRACTS - GENERAL, accessed April 1, 2025, https://www.acq.osd.mil/dpap/dars/dfars/html/current/237_1.htm
 20. here, accessed April 1, 2025, [https://www.acq.osd.mil/dpap/dars/dfars/changenotice/2024/20240815/2024-DO24\(f\)DFARSTextLILO.docx](https://www.acq.osd.mil/dpap/dars/dfars/changenotice/2024/20240815/2024-DO24(f)DFARSTextLILO.docx)
 21. Office of Federal Financial Management Federal Financial Management Improvement Act (FFMIA) | The White House - Obama White House, accessed April 1, 2025, https://obamawhitehouse.archives.gov/omb/financial_ffs_ffmia
 22. 10 USC 2401a: Lease of vehicles, equipment, vessels, and aircraft - OLRC Home, accessed April 1, 2025, <https://uscode.house.gov/view.xhtml?req=granuleid:USC-2010-title10-section2401a&num=0&edition=2010>
 23. Defense Federal Acquisition Regulation Supplement: Repeal of Temporary Statutory Authorities (DFARS Case 2019-D040), accessed April 1, 2025, <https://www.federalregister.gov/documents/2019/11/27/2019-25659/defense-federal-acquisition-regulation-supplement-repeal-of-temporary-statutory-authorities-dfars>
 24. FinCEN's 314(a) Fact Sheet, accessed April 1, 2025, <https://www.fincen.gov/sites/default/files/shared/314afactsheet.pdf>
 25. general counsel of the department of defense, accessed April 1, 2025, <https://ogc.osd.mil/Portals/99/August16-Eighth.pdf>
 26. H.R.2266 - 105th Congress (1997-1998): Department of Defense Appropriations Act, 1998, accessed April 1, 2025, <https://www.congress.gov/bill/105th-congress/house-bill/2266>
 27. Public Law 107-306 Introduction, Title I, and Title VI - National Commission on Terrorist Attacks Upon the United States, accessed April 1, 2025, <https://9-11commission.gov/about/107-306.title6.htm>
 28. 10 USC Ch. 8: DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES - OLRC Home, accessed April 1, 2025, <https://uscode.house.gov/view.xhtml?sessionid=72960E0078706F1CF065E1C981768529?req=granuleid%3AUSC-prelim-title10-chapter8&saved=%7CZ3JhbnVsZWlkOIVTQy1wcmVsaW0tdGI0bGUxMC1zZWN0aW9uMTkz%7C%7C%7C0%7Cfalse%7Cprelim&edition=prelim>
 29. Pub. L. 107-206. 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States. | D.C. Law Library, accessed April 1, 2025, <https://code.dccouncil.gov/us/congress/laws/public/107-206>
 30. sec. ____ . accession bonus for members appointed as commissioned - DoD General Counsel, accessed April 1, 2025, https://ogc.osd.mil/Portals/99/Second_Package2March2007.pdf
 31. extension of authority for support of special operations, accessed April 1, 2025, <https://ogc.osd.mil/Portals/99/FY13SampleProposal.pdf>
 32. Legislative history 107-314 : - Berkeley Law, accessed April 1, 2025, <https://lawcat.berkeley.edu/record/361477>

33. Public Law 107–107—DEC. 28, 2001 - Fiscal.Treasury.gov, accessed April 1, 2025, https://www.fiscal.treasury.gov/files/dnp/PL_107-107.pdf
34. NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996 - GovInfo, accessed April 1, 2025, <https://www.govinfo.gov/content/pkg/PLAW-104publ106/pdf/PLAW-104publ106.pdf>
35. National Defense Authorization Act for Fiscal Year 1993 (PL 102-484), accessed April 1, 2025, <https://www.energy.gov/ehss/articles/national-defense-authorization-act-fiscal-year-1993-pl-102-484>
36. Public Laws, 88th Congress, 1st Session - CQ Almanac Online Edition, accessed April 1, 2025, <https://library.cqpress.com/cqalmanac/document.php?id=cqal63-1316068>
37. *Public Law 100-202 100th Congress Joint Resolution - Office of NIH History and Stetten Museum, accessed April 1, 2025, <https://history.nih.gov/download/attachments/1016866/PL100-202.pdf>
38. defense - DoD General Counsel, accessed April 1, 2025, <https://ogc.osd.mil/Portals/99/June13.pdf>
39. 10 USC Subtitle A, PART IV, CHAPTER 147, SUBCHAPTER I: DEFENSE COMMISSARY AND EXCHANGE SYSTEMS - OLRC Home, accessed April 1, 2025, <https://uscode.ecfr.io/view.xhtml;jsessionid=D23B9CCF5979EFCE147F55B5597D5D7F?req=granuleid%3AUSC-prelim-title10-chapter147-subchapter1&saved=%7CZ3JhbnVsZWlkaWV0Y1wcmVsaW0tdGI0bGUxMC1zZWNOaW9uMjQ4NQ%3D%3D%7C%7C%7C0%7Cfalse%7Cprelim&edition=prelim>
40. National Defense Authorization Act for 2006 Analysis - WIFCON.com, accessed April 1, 2025, <https://www.wifcon.com/dodauth06.htm>