

Analysis of Section 301 of the Forged Act: Impact on Milestone A

History of the recommendation

Key Points: Section 301 of the Forged Act repeals 10 U.S.C. Section 4251, which mandated a written determination by the Milestone Decision Authority (MDA) before granting Milestone A approval for Major Defense Acquisition Programs (MDAPs). The repeal also removes references to Section 4251 in other sections of Title 10 related to the Director of Cost Assessment and Program Evaluation (CAPE). The legislative history suggests this repeal is part of a broader effort to streamline the defense acquisition process and reduce bureaucratic hurdles.

History of the recommendation: The impetus behind the repeal of 10 U.S.C. Section 4251 within Section 301 of the Forged Act is rooted in a long-standing pursuit of efficiency within the defense acquisition system¹. For decades, the acquisition process has faced criticism for its protracted timelines, intricate regulations, and susceptibility to cost escalations, prompting numerous reform endeavors. This particular legislative action appears to be the latest iteration in this ongoing effort to identify and eliminate perceived impediments to a more agile and responsive acquisition framework.

Prior to its repeal, 10 U.S.C. Section 4251 imposed a significant requirement on the Milestone Decision Authority (MDA) before granting Milestone A approval for a major defense acquisition program or a major subprogram⁴. The MDA was obligated to ensure and document in writing that several critical factors had been thoroughly considered. These stipulations included the sufficiency of program information to justify entry into the risk reduction phase, the acceptability of cost, schedule, technical feasibility, and performance trade-offs, and the existence of sound plans for progressing to the development phase. Furthermore, the MDA had to confirm that the program aligned with an approved initial capabilities document, had undergone appropriate market research, possessed adequate risk reduction plans, addressed sustainment planning, conducted an Analysis of Alternatives (AoA) consistent with guidance from the Director of Cost Assessment and Program Evaluation (CAPE), and included a cost estimate concurred upon by CAPE with sufficient resources for successful program execution. For programs initiated after January 1, 2019, there was also a requirement for a high degree of confidence that technology development post-Milestone A would not delay fielding targets. These comprehensive requirements underscore the intent of Section 4251 to establish a robust foundation and well-documented rationale before a program could proceed to the Technology

Maturation & Risk Reduction (TMRR) phase.

The repeal of Section 4251 is explicitly advocated as a means to streamline defense acquisition within Senator Wicker's proposal for Pentagon reform, which includes the Forged Act⁸. The underlying argument is that the accumulation of layered statutes and regulations over time has created an overly complex and burdensome system that stifles innovation and hinders the Department of Defense's ability to act with urgency. From this perspective, the elimination of Section 4251 is a deliberate attempt to "cut red tape" and foster a more agile acquisition process by removing what are perceived as unnecessary bureaucratic obstacles that do not necessarily translate into improved acquisition outcomes. While the specific legislative history detailing the initial enactment of Section 4251 is not provided in the available information, its existence and the current drive for its repeal illustrate the dynamic nature of defense acquisition policy, constantly adapting in response to perceived inefficiencies and evolving priorities. Recent efforts to reorganize Title 10 of the U.S. Code aimed at improving readability without making substantive changes¹³. The repeal of Section 4251, however, goes beyond mere structural adjustments and signifies a conscious policy decision to alter the acquisition process itself.

Desired Effect of the recommendation

Key Points: The primary desired effect is to accelerate the Milestone A approval process by removing the mandatory written determination and its associated requirements. This aims to reduce administrative burden and allow programs to enter the Technology Maturation & Risk Reduction (TMRR) phase more quickly. It is intended to foster innovation and enable the Department of Defense to adopt new technologies faster.

Desired Effect of the recommendation: The most immediate and intended outcome of repealing 10 U.S.C. Section 4251 is to expedite the process of granting Milestone A approval⁴. The detailed written determination previously required was perceived as a potential bottleneck, adding time to the transition from the Materiel Solutions Analysis (MSA) phase to the Technology Maturation & Risk Reduction (TMRR) phase. By eliminating this requirement, the Forged Act seeks to shorten the overall acquisition timeline, a crucial objective for maintaining a technological edge in a rapidly evolving security environment.

A significant part of the rationale for this repeal is the desire to alleviate the administrative burden on program managers and the Milestone Decision Authority (MDA)⁸. The numerous prerequisites and documentation demands of Section 4251

were viewed by some as excessive bureaucracy that detracted from the core task of program execution. The expectation is that by reducing this "red tape," personnel will be freed to concentrate on the practical aspects of developing and fielding new capabilities.

Furthermore, the repeal is intended to accelerate the adoption of innovative technologies⁸. There is a prevailing sentiment that the traditional acquisition process is too slow to keep pace with the rapid advancements in the commercial sector. By streamlining the initial phase of acquisition, the Forged Act aims to enable the DoD to capitalize on emerging technologies more swiftly, becoming a more attractive customer for innovative companies that might be deterred by lengthy and complex bureaucratic procedures.

While not explicitly stated within Section 301 itself, the broader context of the Forged Act suggests an underlying goal of empowering program managers by reducing the layers of oversight and rigid approval processes that were characteristic of the previous Milestone A requirements⁸. The removal of a substantial pre-approval requirement like the written determination could implicitly grant program managers greater autonomy in progressing towards the TMRR phase, fostering a sense of ownership and potentially leading to more agile program management.

Finally, the repeal of Section 4251 might also be intended to better align the traditional acquisition process with newer, more rapid pathways such as the Middle Tier of Acquisition (MTA)¹². The MTA framework emphasizes rapid prototyping and fielding, and a potentially lengthy Milestone A determination under the previous statute could have been perceived as inconsistent with the accelerated timelines envisioned for these alternative acquisition routes. Streamlining the Milestone A process could facilitate a more seamless integration between traditional and rapid acquisition approaches.

Potential Negative impacts of the recommendations

Key Points: Reduced rigor in the Milestone A decision could lead to programs entering TMRR without sufficient information or risk assessment. Weaker oversight from the Director of CAPE in the early stages of acquisition. Potential for increased program costs and schedule delays later in the acquisition lifecycle if foundational analyses are inadequate. Risk of overlooking critical technological or manufacturing risks before significant investment. Possible duplication of capabilities if market research and AoA are not sufficiently emphasized.

Potential Negative impacts of the recommendations: One potential adverse consequence of eliminating the mandatory written determination is the risk of programs advancing to the Technology Maturation & Risk Reduction (TMRR) phase without a fully mature understanding of critical aspects such as technical feasibility, cost projections, and schedule estimates ⁴. The detailed requirements of Section 4251 served as a structured framework to ensure a foundational level of program readiness before significant resources were committed to TMRR. Removing this framework could lead to programs proceeding prematurely.

Another concern stems from the potential for diminished oversight by the Director of Cost Assessment and Program Evaluation (CAPE). The repeal removes specific references to Section 4251 in the context of CAPE's functions ²⁴. Previously, CAPE's concurrence on cost estimates and review of the Analysis of Alternatives (AoA) were integral components of the Milestone A determination. A reduction in CAPE's early involvement could weaken critical checks on program affordability and strategic alignment, potentially leading to less fiscally sound programs advancing.

While the intended outcome is to accelerate the acquisition process, insufficient upfront planning and analysis, which the previous statute aimed to prevent, could paradoxically result in more significant delays and cost overruns in the later stages of the acquisition lifecycle ¹. If programs enter TMRR without a solid foundation, unforeseen technical challenges or inaccurate cost projections could emerge, necessitating costly rework and schedule adjustments. The history of acquisition reform is replete with examples where attempts to streamline processes without maintaining adequate rigor have yielded unintended negative consequences.

The previous requirement to summarize technical and manufacturing risks at Milestone A ⁴ ensured early awareness and consideration of potential challenges associated with the program's technological and production aspects. The absence of this explicit requirement could lead to overlooking critical risks before substantial investment in TMRR, potentially resulting in costly surprises later in development.

Finally, the mandate in Section 4251 to confirm the necessity and appropriateness of any capability duplication ⁴ acted as a safeguard against investing in redundant systems. Without this formal requirement at the Milestone A decision point, there is an increased risk of inefficient resource allocation on programs that overlap with existing capabilities, undermining the overall effectiveness and efficiency of defense spending.

Mitigations the organization will take to diminish the negative impacts

Key Points: The DoD could revise its internal guidance and regulations to maintain rigor in the Milestone A decision process despite the statutory repeal. Emphasis on robust Analysis of Alternatives (AoA) and market research prior to Milestone A. Continued strong involvement of the Director of CAPE in providing independent cost estimates and reviewing program plans. Enhanced focus on early risk identification and mitigation planning during the Materiel Solutions Analysis (MSA) phase. Strengthened internal reviews and oversight by relevant DoD components.

Mitigations the organization will take to diminish the negative impacts: To address the potential for insufficient program maturity resulting from the repeal of Section 4251, the Department of Defense can reinforce its internal review processes and criteria for Milestone A approval. This can be achieved by updating DoD Instruction 5000.02 and related guidance to clearly articulate the expected level of program maturity required before entering the Technology Maturation & Risk Reduction (TMRR) phase²⁵. These updates can ensure that the spirit of the former statutory requirements is maintained through internal policy.

To mitigate the risk of reduced oversight by the Director of Cost Assessment and Program Evaluation (CAPE), the Secretary of Defense can mandate continued strong involvement of CAPE in the Milestone A process. This can include requiring mandatory consultation and CAPE concurrence on key documents such as the Analysis of Alternatives (AoA) and cost estimates, even though the explicit statutory link to Section 4251 has been removed²⁸. Reinforcing CAPE's critical role through updated policy will help preserve essential checks on program affordability and strategic alignment.

To counter the potential for increased downstream costs and delays, the DoD can place greater emphasis on conducting thorough and high-quality Analysis of Alternatives (AoA) during the Materiel Solutions Analysis (MSA) phase, prior to Milestone A⁴. A robust AoA will help ensure that programs are well-defined, and potential challenges are identified early, providing a strong foundation for subsequent phases.

To address the risk of overlooking critical technical and manufacturing risks, the DoD can mandate a comprehensive Technology Readiness Assessment (TRA) and a detailed Technology Development Strategy as mandatory exit criteria for the MSA phase and key inputs for the Milestone A decision⁴. This will ensure a continued focus on identifying and planning for the maturation of critical technologies before significant investment in TMRR.

Finally, to mitigate the potential for duplication of capabilities, the DoD can reinforce the requirement for thorough market research and a clearly articulated capability gap in the Initial Capabilities Document (ICD) prior to Milestone A ⁴. Ensuring a strong understanding of existing capabilities and the specific need for a new system at the outset will help prevent unnecessary redundancy.

DoD Personnel Most Affected

Key Points: Program Managers will be directly affected as the requirements for Milestone A approval change, potentially leading to a faster pace and different documentation needs. Milestone Decision Authorities (MDAs) will have a revised set of criteria to consider for Milestone A approvals. Staff within the Office of the Director of Cost Assessment and Program Evaluation (CAPE) may see changes in their involvement and responsibilities related to Milestone A reviews. Requirements officers involved in developing the Initial Capabilities Document (ICD) and Capability Development Document (CDD) may need to adjust their processes to align with the streamlined Milestone A. Contracting officers will be impacted by the potentially accelerated timelines for entering the TMRR phase and subsequent contracting actions.

DoD Personnel Most Affected: Program Managers will experience a direct impact from the changes introduced by Section 301. The elimination of the mandatory written determination previously required for Milestone A approval means they may face a potentially accelerated timeline for entering the Technology Maturation & Risk Reduction (TMRR) phase. This could necessitate adapting to revised internal guidance regarding required documentation and approvals. While program managers might gain more autonomy in the initial stages, they will also bear increased responsibility for ensuring program readiness in the absence of the specific statutory mandates of the repealed Section 4251.

Milestone Decision Authorities (MDAs) will also be significantly affected. Their decision-making process for granting Milestone A approval will be modified. The statutory requirement for a written determination based on a specific set of considerations is removed. MDAs will need to rely on updated internal DoD policies and their own judgment, informed by the information presented to them, to ensure programs are sufficiently mature to proceed to the next phase.

Staff within the Office of the Director of Cost Assessment and Program Evaluation (CAPE) will see adjustments in their roles and responsibilities related to Milestone A reviews. The amendment to Section 3221(b)(6)(A)(i) ²⁴ indicates a shift in CAPE's

statutory involvement at this stage. While their expertise in cost estimation and review of the Analysis of Alternatives (AoA) will likely remain crucial, the specific statutory trigger for their involvement tied to Section 4251 is gone. This could lead to changes in their review processes, timing, and the specific documentation they focus on at Milestone A.

Requirements Officers, who are responsible for developing and obtaining approval for the Initial Capabilities Document (ICD) and the Capability Development Document (CDD), will need to ensure these foundational documents provide a robust basis for a Milestone A decision in the absence of the detailed statutory requirements of Section 4251. The emphasis may shift towards the quality and comprehensiveness of these documents in articulating the capability gap and the proposed solution.

Finally, Contracting Officers will be impacted by the potentially accelerated timelines for Milestone A approval and the subsequent entry into the TMRR phase. They will need to be prepared to execute the necessary contracts more swiftly, requiring close coordination with program offices and potentially adjustments to their planning processes to accommodate a faster pace.

Stakeholders opposed and rationale for Opposition

Key Points: The Director of Cost Assessment and Program Evaluation (CAPE) might oppose the reduced statutory oversight at Milestone A. Some members of Congress concerned with fiscal responsibility and program oversight may oppose the streamlining if they perceive it as weakening accountability. Established defense contractors who are comfortable with the existing, more detailed processes might resist changes that could favor non-traditional contractors or lead to more rapid prototyping and fielding. Government Accountability Office (GAO) could raise concerns if the changes lead to less transparency or rigor in the early stages of acquisition. Taxpayer advocacy groups might oppose if they believe it could lead to increased waste and cost overruns due to insufficient early scrutiny of programs.

Stakeholders opposed and rationale for Opposition: The Director of Cost Assessment and Program Evaluation (CAPE) may express reservations about the repeal of Section 4251 due to the potential for reduced statutory oversight at the critical Milestone A decision point. CAPE's mandate involves ensuring fiscal responsibility and providing independent analysis of defense programs. The removal of the specific statutory requirements that previously mandated their concurrence on cost estimates and review of the Analysis of Alternatives (AoA) at Milestone A could be perceived as a

weakening of their ability to provide effective early oversight.

Certain members of Congress, particularly those focused on fiscal responsibility and robust program oversight, might oppose the streamlining measures if they believe it could lead to diminished accountability in the defense acquisition process. They may argue that the detailed requirements of Section 4251 were essential safeguards to ensure prudent use of taxpayer funds and to prevent ill-conceived programs from advancing prematurely. These members might view the repeal as a step towards less transparency and potentially increased risk of cost overruns and schedule delays.

Established defense contractors, who have become accustomed to navigating the more detailed and regulated acquisition environment, might also oppose the changes. These companies may be concerned that a more streamlined process, potentially favoring non-traditional contractors and emphasizing rapid prototyping and fielding, could disrupt existing business models and competitive advantages built around navigating the traditional, more bureaucratic system. They might argue that the previous, more rigorous processes ensured a higher level of quality and thoroughness in program development.

The Government Accountability Office (GAO), whose role includes auditing and investigating government programs for efficiency and effectiveness, could raise concerns about the repeal of Section 4251 if they believe it leads to less transparency and rigor in the early stages of defense acquisition. The GAO has historically emphasized the importance of thorough documentation and justification for acquisition decisions²⁹. A perceived reduction in these areas at Milestone A could lead to GAO concerns about potential inefficiencies and increased risks.

Finally, taxpayer advocacy groups, focused on promoting fiscal responsibility and efficiency in government spending, might oppose the repeal if they believe that removing the detailed Milestone A determination could increase the likelihood of waste, fraud, and abuse in defense spending. They might argue that the requirements of Section 4251 served as necessary checks and balances to ensure due diligence before significant financial commitments are made to new weapon systems.

Additional Resources

Key Points: The DoD will likely require updated training for program managers, MDAs, and CAPE staff on the revised Milestone A process and any new internal guidance. Potential need for additional personnel within program offices to manage the potentially faster pace of early acquisition. Resources might be needed to develop

and implement new internal policies and procedures to compensate for the repealed statutory requirements. Funding for enhanced Analysis of Alternatives (AoA) and Technology Readiness Assessments (TRA) during the Materiel Solutions Analysis (MSA) phase to maintain rigor. Investment in better data analytics and tools to support faster decision-making at Milestone A.

Additional Resources: The Department of Defense will likely need to invest in developing and delivering updated training programs for key personnel involved in the Milestone A process. This includes Program Managers, Milestone Decision Authorities (MDAs), and staff within the Office of the Director of Cost Assessment and Program Evaluation (CAPE). The training should cover the implications of the repeal of Section 4251, the specifics of any new internal guidance or policies related to Milestone A approval, and any changes in emphasis or required documentation ²⁵.

To manage the potentially accelerated pace of activities in the Materiel Solutions Analysis (MSA) and Technology Maturation & Risk Reduction (TMRR) phases that could result from a faster Milestone A approval, program offices might require additional personnel. This could include hiring more analysts, engineers, and acquisition specialists to handle the increased workload associated with quicker transitions and potentially more concurrent activities.

Significant resources will be needed to develop and implement new internal policies and procedures to compensate for the removal of the statutory requirements previously outlined in Section 4251. This effort could involve establishing working groups, conducting legal reviews, and updating existing regulations such as DoD Instruction 5000.02 and the Defense Acquisition Guidebook (DAG) ²⁷ to ensure continued rigor in the Milestone A decision process.

To mitigate the risk of insufficient program maturity at Milestone A, the DoD should allocate additional funding to support more comprehensive and high-quality Analysis of Alternatives (AoA) and Technology Readiness Assessments (TRA) during the Materiel Solutions Analysis (MSA) phase. This investment will be crucial for ensuring that programs entering TMRR have a solid foundation in terms of technical feasibility, cost estimates, and risk assessment.

Finally, to facilitate faster decision-making at Milestone A without compromising thoroughness, the DoD might need to invest in enhancing its data analytics capabilities and developing or acquiring improved decision support tools. These tools could enable MDAs to quickly access, analyze, and synthesize relevant program information, cost data, and risk assessments to inform their approval decisions more

efficiently.

Measures of Success

Key Points: Reduction in the average time taken to achieve Milestone A approval for MDAPs. No increase (or a decrease) in the rate of program cost growth from Milestone A to later phases. No increase (or a decrease) in the average schedule delay from Milestone A to Initial Operational Capability (IOC). Qualitative feedback from program managers and MDAs indicating a more efficient yet still rigorous Milestone A process. Stable or improved technology readiness levels at the transition from MSA to TMRR.

Measures of Success: One key metric to evaluate the success of the repeal of Section 4251 will be the average time taken to achieve Milestone A approval for Major Defense Acquisition Programs (MDAPs) from the initiation of the Materiel Solutions Analysis (MSA) phase. A demonstrable reduction in this average timeline compared to historical data would indicate that the streamlining efforts are having the intended effect.

Another critical measure will be the rate of program cost growth from Milestone A to later acquisition phases, such as Engineering and Manufacturing Development (EMD) and Production and Deployment (PD). Success would be indicated by no increase, or ideally a decrease, in the average rate of cost growth for programs approved under the revised process compared to historical trends. This will assess whether the accelerated Milestone A process leads to less fiscally sound programs in the long run.

Similarly, the impact on program schedules should be tracked by monitoring the average schedule delay from Milestone A to Initial Operational Capability (IOC) for programs approved under the new process. No increase, or a decrease, in these delays would suggest that the faster Milestone A approval is contributing to an overall acceleration of capability delivery.

Gathering qualitative feedback from program managers, Milestone Decision Authorities (MDAs), and other relevant stakeholders will be essential. Surveys and interviews can provide insights into whether the revised Milestone A process is perceived as more efficient while still ensuring adequate rigor and informed decision-making. Positive feedback would indicate that the streamlining efforts are not coming at the expense of sound acquisition practices.

Finally, the Department should track the Technology Readiness Levels (TRLs) of key technologies at the point of transition from the MSA phase to the TMRR phase.

Success would be demonstrated by stable or improved TRLs compared to historical data. This will help ensure that the acceleration of Milestone A does not lead to programs entering TMRR with less mature technologies, potentially increasing risks and challenges in later phases.

Alternative approaches

Key Points: Instead of a full repeal, Congress could have amended Section 4251 to streamline specific requirements or delegate more authority to MDAs. The DoD could have focused on improving the efficiency of the existing Milestone A process through better guidance, tools, and training, without a statutory change. Implementing a "phased" Milestone A approach, where certain criteria are addressed iteratively during the MSA phase, could have been an alternative. Greater reliance on prototyping and experimentation prior to a formal Milestone A decision, as suggested in some reform proposals. Tailoring Milestone A requirements based on the Acquisition Category (ACAT) level of the program, rather than a blanket repeal.

Alternative approaches: Rather than a complete repeal of Section 4251, Congress could have considered amending the statute to target specific areas perceived as overly burdensome or inefficient. This could have involved streamlining particular documentation requirements, granting more authority to the Milestone Decision Authority (MDA) to waive certain criteria under specific circumstances, or focusing the statutory requirements on a core set of considerations deemed most critical for successful program initiation.

The Department of Defense itself could have pursued administrative solutions to improve the efficiency of the existing Milestone A process without requiring legislative action. This might have included developing clearer and more concise guidance documents, providing enhanced tools and templates for the required documentation, and offering targeted training to program managers and MDAs on best practices for navigating the Milestone A process effectively and efficiently.

Another potential alternative could have been the implementation of a "phased" Milestone A approach. Instead of requiring all criteria to be fully addressed and documented at a single point in time, certain aspects could have been addressed iteratively throughout the Materiel Solutions Analysis (MSA) phase. This could have allowed for a more continuous assessment of program maturity and a smoother transition into the Technology Maturation & Risk Reduction (TMRR) phase.

Some defense acquisition reform proposals advocate for a greater emphasis on early

prototyping and experimentation, often referred to as a "buy-before-build" approach¹². This alternative would involve investing in the development of early prototypes to reduce technical risks and inform requirements before a formal Milestone A decision. This could potentially lead to a more focused and less documentation-intensive Milestone A review.

Finally, given that the defense acquisition framework already differentiates programs based on their Acquisition Category (ACAT) level²⁵, an alternative to a complete repeal of Section 4251 could have been to tailor the specific requirements of that section based on the ACAT level. This would allow for a more rigorous review process for the most complex and costly programs while providing greater flexibility for smaller or less complex acquisitions.

Section Specific Question 1: What specific changes does Section 301 introduce to the criteria, documentation (e.g., AoA, Tech Maturation Strategy), or decision process required for achieving Milestone A approval?

Key Points: Section 301 eliminates the requirement for a written determination by the MDA that certain criteria are met before Milestone A approval. It removes the specific mention of Section 4251 in the context of CAPE's functions, potentially altering their statutory role at this stage. The amendment to Section 3222(a) shifts the requirement for an independent cost estimate to before the Engineering and Manufacturing Development (EMD) or Production and Deployment (PD) phases, removing the explicit requirement before "a milestone phase," which implicitly included Milestone A.

Section Specific Question 1: The most significant change introduced by Section 301 is the repeal of 10 U.S.C. Section 4251(b)⁴. This repeal eliminates the statutory requirement for the Milestone Decision Authority (MDA) to make a written determination, after consulting with the Joint Requirements Oversight Council (JROC), that a comprehensive set of criteria were met before granting Milestone A approval for a Major Defense Acquisition Program (MDAP) or subprogram. This written determination previously mandated confirmation that factors such as the program's fulfillment of an approved initial capabilities document, the conduct of appropriate market research, the existence of risk reduction plans, adequate sustainment planning, the completion of a CAPE-consistent Analysis of Alternatives (AoA), and the submission of a CAPE-concurred cost estimate were considered.

Furthermore, Section 301(b) amends Section 3221(b)(6)(A)(i) of Title 10 by striking the phrase "4251 or"²⁴. This section outlines the functions of the Director of Cost Assessment and Program Evaluation (CAPE). The removal of this reference suggests a

change in the statutory relationship between CAPE's responsibilities and the Milestone A determination process as previously defined by Section 4251. While CAPE's involvement in reviewing cost estimates and AoAs will likely continue through other statutory provisions and DoD policy, the specific statutory trigger for their involvement linked to the repealed section is now removed.

Finally, Section 301(c) modifies Section 3222(a) of Title 10, which pertains to the independent cost estimate required before approval²⁴. The amendment replaces "a milestone phase" with "the engineering and manufacturing development phase, or production and deployment phase,". This change removes the explicit statutory requirement for an independent cost estimate prior to Milestone A approval. While cost estimates will undoubtedly remain a crucial element of the Milestone A decision process under DoD policy, the statutory mandate for an *independent* cost estimate is now focused on the later stages of acquisition.

Section Specific Question 2: How do these modifications affect the planning and execution of the Technology Maturation & Risk Reduction (TMRR) phase for acquisition programs?

Key Points: The modifications could lead to a faster entry into the TMRR phase, potentially allowing for quicker exploration of technologies and risk reduction. However, without the mandatory checks of Section 4251, there is a risk of entering TMRR with less mature technologies or an incomplete understanding of risks. Program managers might have more flexibility in planning and executing TMRR, but also greater responsibility for ensuring program readiness. The absence of a statutory requirement for an independent cost estimate before Milestone A might affect the initial funding and resource allocation for TMRR. The overall impact on TMRR will depend heavily on how the DoD adapts its internal policies and guidance to compensate for the repealed statutory requirements.

Section Specific Question 2: The elimination of the mandatory written determination for Milestone A approval, as a result of repealing Section 4251, could lead to a potentially faster transition into the Technology Maturation & Risk Reduction (TMRR) phase. This accelerated timeline could allow acquisition programs to commence the exploration of critical technologies and the reduction of identified risks more quickly, which can be particularly beneficial for addressing urgent operational needs or capitalizing on rapidly evolving technological landscapes.

However, the removal of the specific checks and balances previously mandated by Section 4251 also introduces a potential risk of programs entering the TMRR phase

with less mature technologies or a less comprehensive understanding of the associated risks. The previous requirement for a summary of technical and manufacturing risks⁴ aimed to ensure that these critical aspects were thoroughly considered before significant investment in TMRR. Without this statutory mandate, there is a possibility that programs might proceed with a less robust foundation.

Program managers might experience greater flexibility in the planning and execution of the TMRR phase due to the reduced upfront statutory hurdles for Milestone A. However, this increased flexibility will also come with greater responsibility. In the absence of the explicit statutory mandates of Section 4251, program managers will need to ensure that the necessary foundational work, such as conducting thorough Analysis of Alternatives (AoAs) and comprehensive risk assessments, is completed both before and during the TMRR phase to ensure program success.

The shift in the statutory requirement for an independent cost estimate to the later Engineering and Manufacturing Development (EMD) and Production and Deployment (PD) phases²⁴ might have an indirect impact on the initial funding and resource allocation for the TMRR phase. While cost estimates will still be required as part of internal DoD processes for Milestone A, the absence of a specific statutory mandate for an independent estimate at this stage could potentially influence the level of scrutiny applied to initial TMRR funding requests.

Ultimately, the overall effect of these modifications on the planning and execution of the TMRR phase will depend significantly on how the Department of Defense adapts its internal policies and guidance in response to the repeal of Section 4251. If the DoD maintains or even strengthens its internal requirements for program maturity, risk assessment, and cost estimation prior to granting Milestone A approval, the impact on TMRR might be minimal. However, if these internal safeguards are weakened, there is a risk that programs could enter the TMRR phase with less adequate preparation, potentially leading to increased challenges and risks later in the acquisition lifecycle.

Summary

Key Points: Section 301 of the Forged Act repeals 10 U.S.C. Section 4251, eliminating the mandatory written determination for Milestone A approval. This aims to streamline the acquisition process, reduce bureaucracy, and accelerate the adoption of innovative technologies. Potential negative impacts include reduced rigor in early program stages, less CAPE oversight, and increased risks of cost overruns and schedule delays later on. The DoD can mitigate these risks by reinforcing internal policies and procedures for Milestone A approval, emphasizing thorough front-end

analysis, and ensuring continued robust oversight. Program managers, MDAs, and CAPE staff will be most affected, requiring updated training and potentially adjusted responsibilities. Opposition may arise from stakeholders concerned about reduced oversight and potential for fiscal irresponsibility. The DoD will need to assess the success of this change by tracking Milestone A approval times, program cost growth, schedule adherence, and stakeholder feedback. Alternative approaches to streamlining Milestone A could have included amending Section 4251, improving existing processes, implementing a phased approach, or increasing reliance on early prototyping. Section 301 specifically removes the statutory requirement for a detailed written determination at Milestone A, alters the reference to Section 4251 in CAPE's functions, and shifts the mandatory independent cost estimate to later acquisition phases. These modifications could lead to a faster start to TMRR but also carry the risk of less mature technologies and reduced upfront scrutiny, highlighting the critical need for robust internal DoD policies to guide the revised process.

Summary: Section 301 of the Forged Act introduces notable changes to the defense acquisition process by repealing 10 U.S.C. Section 4251. This action eliminates the statutory requirement for a detailed written determination by the Milestone Decision Authority (MDA) before granting Milestone A approval, a move intended to streamline the early stages of acquisition, reduce administrative burden, and accelerate the adoption of innovative technologies within the Department of Defense. While the anticipated benefits include a potentially faster transition into the Technology Maturation & Risk Reduction (TMRR) phase and increased agility in responding to evolving threats, the repeal also presents potential negative impacts. These include the risk of programs proceeding to TMRR with insufficient maturity or inadequate risk assessment due to the absence of the mandatory checks previously in place. Furthermore, the repeal could lead to reduced statutory oversight from the Director of Cost Assessment and Program Evaluation (CAPE) at this critical early stage.

To mitigate these potential downsides, the Department of Defense will need to proactively adapt its internal policies, procedures, and training programs. Emphasizing thorough Analysis of Alternatives (AoAs), Technology Readiness Assessments (TRAs), and robust market research during the Materiel Solutions Analysis (MSA) phase will be crucial. Ensuring continued strong involvement of CAPE in the Milestone A decision process, even without the specific statutory link, will also be vital for maintaining fiscal responsibility and program oversight. The personnel most directly affected by these changes will include Program Managers, MDAs, and CAPE staff, who will require updated training and may see adjustments in their roles and responsibilities. Opposition to this change may arise from stakeholders, including CAPE, some

members of Congress, established defense contractors, the GAO, and taxpayer advocacy groups, who may be concerned about the potential for reduced oversight and increased risks.

Measuring the success of this legislative change will require tracking key metrics such as the average time for Milestone A approval, program cost growth, schedule adherence, and stakeholder feedback. Additionally, monitoring technology readiness levels at the transition to TMRR will be important to ensure that the acceleration of Milestone A does not compromise technical maturity. Alternative approaches to streamlining Milestone A could have included targeted amendments to Section 4251, administrative improvements to existing processes, a phased Milestone A approach, or increased reliance on early prototyping. Ultimately, the modifications introduced by Section 301 specifically remove the statutory mandate for a detailed written determination at Milestone A, alter the reference to Section 4251 in CAPE's functions, and shift the statutory focus of the mandatory independent cost estimate to later acquisition phases. These changes could lead to a faster start to TMRR but also carry the inherent risk of reduced upfront scrutiny, underscoring the critical importance of robust and adaptive internal DoD policies to guide the revised acquisition process.

Section of Title 10	Previous Requirement/Reference	Change Introduced by Section 301
Section 4251	Mandated a written determination by the MDA with specific criteria before Milestone A approval	Repealed entirely.
Section 3221(b)(6)(A)(i)	Referenced Section 4251 in the context of the Director of CAPE's functions	Amended to strike "4251 or," removing the specific statutory link between CAPE's functions and the repealed Milestone A determination.
Section 3222(a)	Required an independent cost estimate before "a milestone phase" (implicitly including	Amended to require an independent cost estimate before the "engineering and

	Milestone A)	manufacturing development phase, or production and deployment phase," shifting the statutory focus.
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