

policies of the United States that is carried out every four years under section 118 of this title.

(Added Pub. L. 107-314, div. A, title X, §1022(a)(1), Dec. 2, 2002, 116 Stat. 2639; amended Pub. L. 111-383, div. A, title X, §1023(a), Jan. 7, 2011, 124 Stat. 4349; Pub. L. 112-81, div. A, title X, §1011(a), Dec. 31, 2011, 125 Stat. 1558; Pub. L. 112-239, div. A, title X, §1014(a), Jan. 2, 2013, 126 Stat. 1908; Pub. L. 113-66, div. A, title X, §1021, Dec. 26, 2013, 127 Stat. 844.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (b)(1), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§3001 et seq.) of Title 50. Section 108 of the Act is now classified to section 3043 of Title 50. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2013—Subsec. (b)(1). Pub. L. 113-66, §1021(a)(1), substituted “shall be designed” for “should be designed” in two places and “supports” for “is capable of supporting” in two places.

Subsec. (b)(2)(B). Pub. L. 113-66, §1021(a)(2)(A), inserted “and capabilities” after “naval vessel force structure”.

Subsec. (b)(2)(D). Pub. L. 113-66, §1021(a)(2)(B), added subpar. (D).

Subsec. (c). Pub. L. 113-66, §1021(b), added subsec. (c) and struck out former subsec. (c). Text read as follows: “If the budget for a fiscal year provides for funding of the construction of naval vessels at a level that is not sufficient to sustain the naval vessel force structure specified in the naval vessel construction plan for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of naval vessels that will result from funding naval vessel construction at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands.”

Subsecs. (e), (f). Pub. L. 112-239 added subsec. (e) and redesignated former subsec. (e) as (f).

2011—Pub. L. 112-81 amended section generally. Prior to amendment, section related to submission of a long-range plan for construction of combatant and support naval vessels that supports the force structure recommendations of a quadrennial defense review.

Pub. L. 111-383 amended section generally. Prior to amendment, section related to submission of an annual plan for construction of naval vessels and certification that the budget for the current fiscal year and the future-years defense program is sufficient for procurement of vessels provided for in the plan.

§ 231a. Budgeting for life-cycle cost of aircraft for the Navy, Army, and Air Force: annual plan and certification

(a) ANNUAL AIRCRAFT PROCUREMENT PLAN AND CERTIFICATION.—Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year, the Secretary of Defense shall submit to the congressional defense committees—

(1) a plan for the procurement of the aircraft specified in subsection (b) for the Department of the Navy, the Department of the Army, and the Department of the Air Force developed in accordance with this section; and

(2) a certification by the Secretary that both the budget for such fiscal year and the future-

years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the procurement of aircraft at a level that is sufficient for the procurement of the aircraft provided for in the plan under paragraph (1) on the schedule provided in the plan.

(b) COVERED AIRCRAFT.—The aircraft specified in this subsection are the aircraft as follows:

- (1) Fighter aircraft.
- (2) Attack aircraft.
- (3) Bomber aircraft.
- (4) Intertheater lift aircraft.
- (5) Intratheater lift aircraft.
- (6) Intelligence, surveillance, and reconnaissance aircraft.
- (7) Tanker aircraft.
- (8) Remotely piloted aircraft.
- (9) Rotary-wing aircraft.
- (10) Operational support and executive lift aircraft.

(11) Any other major support aircraft designated by the Secretary of Defense for purposes of this section.

(c) ANNUAL AIRCRAFT PROCUREMENT PLAN.—(1) The annual aircraft procurement plan developed for a fiscal year for purposes of subsection (a)(1) should be designed so that the aviation force provided for under the plan is capable of supporting the national military strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a),¹ except that, if at the time the plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then the plan should be designed so that the aviation force provided for under the plan is capable of supporting the aviation force structure recommended in the report of the most recent Quadrennial Defense Review.

(2) Each annual aircraft procurement plan shall include the following:

(A) A detailed program for the procurement of the aircraft specified in subsection (b) for each of the Department of the Navy, the Department of the Army, and the Department of the Air Force over the next 30 fiscal years.

(B) A description of the necessary aviation force structure to meet the requirements of the national military strategy of the United States or the most recent Quadrennial Defense Review, whichever is applicable under paragraph (1).

(C) The estimated levels of annual investment funding necessary to carry out each aircraft program, together with a discussion of the procurement strategies on which such estimated levels of annual investment funding are based, set forth in aggregate for the Department of Defense and in aggregate for each military department.

(D) The estimated level of annual funding necessary to operate, maintain, sustain, and

¹ See References in Text note below.

support each aircraft program throughout the life-cycle of the program, set forth in aggregate for the Department of Defense and in aggregate for each military department.

(E) For each of the cost estimates required by subparagraphs (C) and (D)—

(i) a description of whether the cost estimate is derived from the cost estimate position of the military department or derived from the cost estimate position of the Cost Analysis and Program Evaluation office of the Secretary of Defense;

(ii) if the cost estimate position of the military department and the cost estimate position of the Cost Analysis and Program Evaluation office differ by more than .5 percent for any aircraft program, an annotated cost estimate difference and sufficient rationale to explain the difference; and

(iii) the confidence or certainty level associated with the cost estimate for each aircraft program.

(F) An assessment by the Secretary of Defense of the extent to which the combined aircraft forces of the Department of the Navy, the Department of the Army, and the Department of the Air Force meet the national security requirements of the United States.

(3) For any cost estimate required by paragraph (2)(C) or (D), for any aircraft program for which the Secretary is required to include in a report under section 2432 of this title, the source of the cost information used to prepare the annual aircraft plan, shall be sourced from the Selected Acquisition Report data that the Secretary plans to submit to the congressional defense committees in accordance with subsection (f) of that section for the year for which the annual aircraft plan is prepared.

(4) The annual aircraft procurement plan shall be submitted in unclassified form and shall contain a classified annex.

(d) **ASSESSMENT WHEN AIRCRAFT PROCUREMENT BUDGET IS INSUFFICIENT TO MEET APPLICABLE REQUIREMENTS.**—If the budget for a fiscal year provides for funding of the procurement of aircraft for either the Department of the Navy, the Department of the Army, or the Department of the Air Force at a level that is not sufficient to sustain the aviation force structure specified in the aircraft procurement plan for such Department for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of aircraft that will result from funding aircraft procurement at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands.

(e) **ANNUAL REPORT ON AIRCRAFT INVENTORY.**—(1) As part of the annual plan and certification required to be submitted under this section, the Secretary shall include a report on the aircraft in the inventory of the Department of Defense. Each such report shall include the following, for the year covered by the report:

(A) The total number of aircraft in the inventory.

(B) The total number of the aircraft in the inventory that are active, stated in the follow-

ing categories (with appropriate subcategories for mission aircraft, training aircraft, dedicated test aircraft, and other aircraft):

(i) Primary aircraft.

(ii) Backup aircraft.

(iii) Attrition and reconstitution reserve aircraft.

(C) The total number of the aircraft in the inventory that are inactive, stated in the following categories:

(i) Bailment aircraft.

(ii) Drone aircraft.

(iii) Aircraft for sale or other transfer to foreign governments.

(iv) Leased or loaned aircraft.

(v) Aircraft for maintenance training.

(vi) Aircraft for reclamation.

(vii) Aircraft in storage.

(D) The aircraft inventory requirements approved by the Joint Chiefs of Staff.

(2) Each report submitted under this subsection shall set forth each item described in paragraph (1) separately for the regular component of each armed force and for each reserve component of each armed force and, for each such component, shall set forth each type, model, and series of aircraft provided for in the future-years defense program that covers the fiscal year for which the budget accompanying the plan, certification and report is submitted.

(f) **DEFINITIONS.**—In this section:

(1) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term “Quadrennial Defense Review” means the review of the defense programs and policies of the United States that is carried out every 4 years under section 118 of this title.

(Added Pub. L. 110–417, [div. A], title I, §141(a), Oct. 14, 2008, 122 Stat. 4379; amended Pub. L. 112–81, div. A, title X, §1069(a), (b), Dec. 31, 2011, 125 Stat. 1589, 1591; Pub. L. 113–66, div. A, title X, §1091(a)(5), Dec. 26, 2013, 127 Stat. 875.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (c)(1), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§3001 et seq.) of Title 50. Section 108 of the Act is now classified to section 3043 of Title 50. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113–66 substituted “fiscal year, the Secretary of Defense” for “fiscal year of Defense” in introductory provisions.

2011—Pub. L. 112–81, §1069(b), amended section catchline generally, substituting “Budgeting for life-cycle cost of aircraft for the Navy, Army, and Air Force: annual plan and certification” for “Budgeting for procurement of aircraft for the Navy and Air Force: annual plan and certification”.

Subsec. (a). Pub. L. 112–81, §1069(a)(1)(A), substituted “Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year” for “The Secretary” and “submit to the congressional defense committees” for “include with the defense budget materials for each fiscal year” in introductory provisions.

Subsec. (a)(1). Pub. L. 112-81, § 1069(a)(1)(B), inserted “, the Department of the Army,” after “Navy”.

Subsec. (b)(4). Pub. L. 112-81, § 1069(a)(2)(A), substituted “Intertheater” for “Strategic”.

Subsec. (b)(8) to (11). Pub. L. 112-81, § 1069(a)(2)(B), (C), added pars. (8) to (10) and redesignated former par. (8) as (11).

Subsec. (c)(1). Pub. L. 112-81, § 1069(a)(3)(A), substituted “national military strategy of the United States” for “national security strategy of the United States”.

Subsec. (c)(2)(A). Pub. L. 112-81, § 1069(a)(3)(B)(i), inserted “, the Department of the Army,” after “Navy”.

Subsec. (c)(2)(B). Pub. L. 112-81, § 1069(a)(3)(B)(ii), substituted “national military strategy of the United States” for “national security strategy of the United States”.

Subsec. (c)(2)(C). Pub. L. 112-81, § 1069(a)(3)(B)(iii)(II), (III), substituted “each aircraft program” for “the program” and inserted before period at end “, set forth in aggregate for the Department of Defense and in aggregate for each military department”.

Pub. L. 112-81, § 1069(a)(3)(B)(iii)(I), which directed the insertion of “investment” before “funding”, was executed by inserting “investment” before “funding” both places it appeared, to reflect the probable intent of Congress.

Subsec. (c)(2)(D) to (F). Pub. L. 112-81, § 1069(a)(3)(B)(iv)–(vi), added subpars. (D) and (E), redesignated former subpar. (D) as (F), and, in subpar. (F), inserted “, the Department of the Army,” after “Navy”.

Subsec. (c)(3), (4). Pub. L. 112-81, § 1069(a)(3)(C), added pars. (3) and (4).

Subsec. (d). Pub. L. 112-81, § 1069(a)(4), inserted “, the Department of the Army,” after “Navy”.

Subsec. (e). Pub. L. 112-81, § 1069(a)(6), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 112-81, § 1069(a)(5), (7), redesignated subsec. (e) as (f), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: “The term ‘defense budget materials’, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.”

[§ 232. Repealed. Pub. L. 112-239, div. A, title X, § 1081(1)(A), Jan. 2, 2013, 126 Stat. 1960]

Section, added Pub. L. 108-375, div. A, title II, § 214(a), Oct. 28, 2004, 118 Stat. 1834, provided that amounts for research, development, test, and evaluation for the United States Joint Forces Command would be derived only from Defense-wide amounts and required a separate display for such amounts in the budget.

§ 233. Operation and maintenance budget presentation

(a) IDENTIFICATION OF BASELINE AMOUNTS IN O&M JUSTIFICATION DOCUMENTS.—In any case in which the amount requested in the President’s budget for a fiscal year for a Department of Defense operation and maintenance program, project, or activity is different from the amount appropriated for that program, project, or activity for the current year, the O&M justification documents supporting that budget shall identify that appropriated amount and the difference between that amount and the amount requested in the budget, stated as an amount and as a percentage.

(b) NAVY FOR SHIP DEPOT MAINTENANCE AND FOR INTERMEDIATE SHIP MAINTENANCE.—In the O&M justification documents for the Navy for any fiscal year, amounts requested for ship depot maintenance and amounts requested for intermediate ship maintenance shall be identified and distinguished.

(c) DEFINITIONS.—In this section:

(1) The term “O&M justification documents” means Department of Defense budget justification documents with respect to accounts for operation and maintenance submitted to the congressional defense committees in support of the Department of Defense component of the President’s budget for any fiscal year.

(2) The term “President’s budget” means the budget of the President submitted to Congress under section 1105 of title 31 for any fiscal year.

(3) The term “current year” means the fiscal year during which the President’s budget is submitted in any year.

(Added Pub. L. 108-375, div. A, title X, § 1003(a)(1), Oct. 28, 2004, 118 Stat. 2035.)

§ 234. POW/MIA activities: display of budget information

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for a fiscal year, a consolidated budget justification display, in classified and unclassified form, that covers all programs and activities of Department of Defense POW/MIA accounting and recovery organizations.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) for a fiscal year shall include for each such organization the following:

(1) A statement of what percentage of the requirements originally requested by the organization in the budget review process that the budget requests funds for.

(2) A summary of actual or estimated expenditures by that organization for the fiscal year during which the budget is submitted and for the fiscal year preceding that year.

(3) The amount in the budget for that organization.

(4) A detailed explanation of the shortfalls, if any, in the funding of any requirement shown pursuant to paragraph (1), when compared to the amount shown pursuant to paragraph (3).

(5) The budget estimate for that organization for the five fiscal years after the fiscal year for which the budget is submitted.

(c) DEPARTMENT OF DEFENSE POW/MIA ACCOUNTING AND RECOVERY ORGANIZATIONS.—In this section, the term “Department of Defense POW/MIA accounting and recovery organization” means any of the following (and any successor organization):

(1) The Defense Prisoner of War/Missing Personnel Office (DPMO).

(2) The Joint POW/MIA Accounting Command (JPAC).

(3) The Armed Forces DNA Identification Laboratory (AFDIL).

(4) The Life Sciences Equipment Laboratory (LSEL) of the Air Force.

(5) Any other element of the Department of Defense the mission of which (as designated by the Secretary of Defense) involves the accounting for and recovery of members of the armed forces who are missing in action or prisoners of war or who are unaccounted for.