

1986, 100 Stat. 1783–82, 1783–133, and Pub. L. 99–591, § 101(c) [title X, § 903(e)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–133; Pub. L. 99–661, div. A, title IX, formerly title IV, § 903(e), Nov. 14, 1986, 100 Stat. 3912, renumbered title IX, Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103–160, div. A, title IX, § 904(d)(1), (3), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, § 1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 116–92, div. A, title IX, § 902(6), Dec. 20, 2019, 133 Stat. 1543; Pub. L. 116–283, div. A, title IX, § 924(b)(8), Jan. 1, 2021, 134 Stat. 3822.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
171(a)	5:171e (less last sentence).	July 26, 1947, ch. 343, § 210; restated Aug. 10, 1949, ch. 412, § 7(a), 63 Stat. 581.
171(b)	5:171e (last sentence).	

Editorial Notes

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2021—Subsec. (a)(17). Pub. L. 116–283 added par. (17).

2019—Subsec. (a)(3). Pub. L. 116–92, § 902(6)(A), substituted “Under Secretary of Defense for Acquisition and Sustainment” for “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

Subsec. (a)(4) to (16). Pub. L. 116–92, § 902(6)(B)–(E), added par. (4), redesignated former pars. (4) to (8) as (5) to (9), respectively, added pars. (10) and (11), and redesignated former pars. (9) to (13) as (12) to (16), respectively.

2001—Subsec. (a)(3). Pub. L. 107–107 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

1993—Subsec. (a)(3). Pub. L. 103–160, § 904(d)(1), substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.

Subsec. (a)(8). Pub. L. 103–160, § 904(d)(3), substituted “Deputy Under Secretary of Defense for Acquisition and Technology” for “Deputy Under Secretary of Defense for Acquisition”.

1986—Subsec. (a)(3) to (13). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended subsec. (a) identically, redesignating pars. (3) to (11) as (4), (5), (6), (7), (9), (10), (11), (12), and (13), respectively, adding new pars. (3) and (8), and substituting “the Under Secretary of Defense for Acquisition” for “the Under Secretaries of Defense” in par. (7).

1983—Subsec. (a)(11). Pub. L. 98–94 added par. (11).

1977—Subsec. (a)(2). Pub. L. 95–140, § 3(b)(1), substituted “the Deputy” for “a Deputy”.

Subsec. (a)(6). Pub. L. 95–140, § 3(b)(2), substituted “the Under Secretaries of Defense;” for “the Director of Defense Research and Engineering;”.

1972—Subsec. (a)(2). Pub. L. 92–596 substituted “a Deputy Secretary” for “the Deputy Secretary”.

1958—Subsec. (a)(6) to (10). Pub. L. 85–599 added par. (6) and redesignated former pars. (6) to (9) as (7) to (10), respectively.

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98–36, § 1, May 27, 1983, 97 Stat. 200, provided: “That this Act [enacting section 178 of this title and amending section 2113 of this title] may be cited as the ‘Foundation for the Advancement of Military Medicine Act of 1983.’”

§ 171a. Council on Oversight of the National Leadership Command, Control, and Communications System

(a) ESTABLISHMENT.—There is within the Department of Defense a council to be known as the “Council on Oversight of the National Leadership Command, Control, and Communications System” (in this section referred to as the “Council”).

(b) MEMBERSHIP.—The members of the Council shall be as follows:

(1) The Under Secretary of Defense for Policy.

(2) The Under Secretary of Defense for Acquisition and Sustainment.

(3) The Vice Chairman of the Joint Chiefs of Staff.

(4) The Commander of the United States Strategic Command.

(5) The Director of the National Security Agency.

(6) The Chief Information Officer of the Department of Defense.

(7) Such other officers of the Department of Defense as the Secretary may designate.

(c) CO-CHAIR.—The Council shall be co-chaired by the Under Secretary of Defense for Acquisition and Sustainment and the Vice Chairman of the Joint Chiefs of Staff.

(d) RESPONSIBILITIES.—(1) The Council shall be responsible for oversight of the command, control, and communications system for the national leadership of the United States, including nuclear command, control, and communications, and including with respect to the integrated tactical warning and attack assessment systems, processes, and enablers, and continuity of the governmental functions of the Department of Defense.

(2) In carrying out the responsibility for oversight of the command, control, and communications system as specified in paragraph (1), the Council shall be responsible for the following:

(A) Oversight of performance assessments (including interoperability).

(B) Vulnerability identification and mitigation.

(C) Architecture development (including space system architectures and associated user terminals and ground segments).

(D) Resource prioritization.

(E) Such other responsibilities as the Secretary of Defense shall specify for purposes of this section.

(e) ANNUAL REPORTS.—During the period preceding January 31, 2021, at the same time each year that the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31, and from time to time after such period at the discretion of the Council, the Council shall submit to the congressional defense committees a report on the activities of the Council. Each report shall include the following:

(1) A description and assessment of the activities of the Council during the previous fiscal year.

(2) A description of the activities proposed to be undertaken by the Council during the period covered by the current future-years defense program under section 221 of this title.

(3) Any changes to the requirements of the command, control, and communications system for the national leadership of the United States made during the previous year, along with an explanation for why the changes were made and a description of the effects of the changes to the capability of the system.

(4) A breakdown of each program element in such budget that relates to the system, including how such program element relates to the operation and sustainment, research and development, procurement, or other activity of the system.

(5) An assessment of the threats and vulnerabilities described in the reports and assessments collected under subsection (f) during the previous year, including any plans to address such threats and vulnerabilities.

(6) An assessment of the readiness of the command, control, and communications system for the national leadership of the United States and of each layer of the system, as that layer relates to nuclear command, control, and communications.

(f) COLLECTION OF ASSESSMENTS ON CERTAIN THREATS.—The Council shall collect and assess (consistent with the provision of classified information and intelligence sources and methods) all reports and assessments otherwise conducted by the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) regarding foreign threats, including cyber threats, to the command, control, and communications system for the national leadership of the United States and the vulnerabilities of such system to such threats.

(g) BUDGET AND FUNDING MATTERS.—(1) Not later than 30 days after the President submits to Congress the budget for a fiscal year under section 1105(a) of title 31, the Commander of the United States Strategic Command shall submit to the Chairman of the Joint Chiefs of Staff an assessment of—

(A) whether such budget allows the Federal Government to meet the required capabilities of the command, control, and communications system for the national leadership of the United States during the fiscal year covered by the budget and the four subsequent fiscal years; and

(B) if the Commander determines that such budget does not allow the Federal Government to meet such required capabilities, a description of the steps being taken to meet such required capabilities.

(2) Not later than 30 days after the date on which the Chairman of the Joint Chiefs of Staff receives the assessment of the Commander of the United States Strategic Command under paragraph (1), the Chairman shall submit to the congressional defense committees—

(A) such assessment as it was submitted to the Chairman; and

(B) any comments of the Chairman.

(3) If a House of Congress adopts a bill authorizing or appropriating funds for the activities of the command, control, and communications system for the national leadership of the United States that, as determined by the Council, provides insufficient funds for such activities for

the period covered by such bill, the Council shall notify the congressional defense committees of the determination.

(h) NOTIFICATION OF ANOMALIES.—(1) The Secretary of Defense shall submit to the congressional defense committees written notification of an anomaly in the nuclear command, control, and communications system for the national leadership of the United States that is reported to the Secretary or the Council by not later than 14 days after the date on which the Secretary or the Council learns of such anomaly, as the case may be.

(2) In this subsection, the term “anomaly” means any unplanned, irregular, or abnormal event, whether unexplained or caused intentionally or unintentionally by a person or a system.

(i) REPORTS ON SPACE ARCHITECTURE DEVELOPMENT.—(1) Not less than 90 days before each of the dates on which a system described in paragraph (2) achieves Milestone A or Milestone B approval, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the congressional defense committees a report prepared by the Council detailing the implications of any changes to the architecture of such a system with respect to the systems, capabilities, and programs covered under subsection (d).

(2) A system described in this paragraph is any of the following:

(A) Advanced extremely high frequency satellites.

(B) The space-based infrared system.

(C) The integrated tactical warning and attack assessment system and its command and control system.

(D) The enhanced polar system.

(3) In this subsection, the terms “Milestone A approval” and “Milestone B approval” have the meanings given such terms in sections 4172(e) and 4251(d) of this title.

(j) NOTIFICATION OF REDUCTION OF CERTAIN WARNING TIME.—(1) None of the funds authorized to be appropriated or otherwise made available to the Department of Defense for any fiscal year may be used to change any command, control, and communications system described in subsection (d)(1) in a manner that reduces the warning time provided to the national leadership of the United States with respect to a warning of a strategic missile attack on the United States unless—

(A) the Secretary of Defense notifies the congressional defense committees of such proposed change and reduction; and

(B) a period of one year elapses following the date of such notification.

(2) Not later than March 1, 2017, and each year thereafter, the Council shall determine whether the integrated tactical warning and attack assessment system and its command and control system have met all warfighter requirements for operational availability, survivability, and durability. If the Council determines that such systems have not met such requirements, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall jointly submit to the congressional defense committees—

(A) an explanation for such negative determination;

(B) a description of the mitigations that are in place or being put in place as a result of such negative determination; and

(C) the plan of the Secretary and the Chairman to ensure that the Council is able to make a positive determination in the following year.

(k) STATUS OF ACQUISITION PROGRAMS.—(1) On a quarterly basis, each program manager of a covered acquisition program shall transmit to the co-chairs of the Council, acting through the senior steering group of the Council, a report that identifies—

(A) the covered acquisition program;

(B) the requirements of the program;

(C) the development timeline of the program; and

(D) the status of the program, including whether the program is delayed and, if so, whether such delay will result in a program schedule delay.

(2) Not later than seven days after the end of each semiannual period, the co-chairs of the Council shall submit to the congressional defense committees a report that identifies, with respect to the reports transmitted to the Council under paragraph (1) for the two quarters in such period—

(A) each covered acquisition program that is delayed more than 180 days; and

(B) any covered acquisition program that should have been included in such reports but was excluded, and the reasons for such exclusion.

(3) In this subsection, the term “covered acquisition program” means each acquisition program of the Department of Defense that materially contributes to—

(A) the nuclear command, control, and communications systems of the United States; or

(B) the continuity of government systems of the United States.

(l) NATIONAL LEADERSHIP OF THE UNITED STATES DEFINED.—In this section, the term “national leadership of the United States” means the following:

(1) The President.

(2) The Vice President.

(3) Such other civilian officials of the United States Government as the President shall designate for purposes of this section.

(Added Pub. L. 113–66, div. A, title X, §1052(a)(1), Dec. 26, 2013, 127 Stat. 859; amended Pub. L. 114–92, div. A, title XVI, §1651, Nov. 25, 2015, 129 Stat. 1121; Pub. L. 114–328, div. A, title XVI, §1661, Dec. 23, 2016, 130 Stat. 2613; Pub. L. 115–91, div. A, title X, §1081(a)(13), title XVI, §1654(a)(1), Dec. 12, 2017, 131 Stat. 1595, 1758; Pub. L. 116–92, div. A, title XVI, §1661, Dec. 20, 2019, 133 Stat. 1772; Pub. L. 116–283, div. A, title X, §1081(a)(10), title XVIII, §1845(c)(2), Jan. 1, 2021, 134 Stat. 3871, 4247; Pub. L. 117–81, div. A, title XVII, §§1701(b)(14), 1702(a)(1), Dec. 27, 2021, 135 Stat. 2134, 2155.)

Editorial Notes

AMENDMENTS

2021—Subsec. (i)(1). Pub. L. 116–283, §1081(a)(10), substituted “Acquisition” for “Acquisitions”.

Subsec. (i)(3). Pub. L. 117–81, §1702(a)(1), substituted “4251(d)” for “2366a(d)”.

Pub. L. 116–283, §1845(c)(2), as amended by Pub. L. 117–81, §1701(b)(14), substituted “sections 4172(e)” for “sections 2366(e)”.

2019—Pub. L. 116–92 substituted “and Sustainment” for “, Technology, and Logistics” wherever appearing.

2017—Subsec. (f). Pub. L. 115–91, §1081(a)(13)(A), substituted “(50 U.S.C. 3003(4))” for “(50 U.S.C. 3003(4))”.

Subsec. (i)(3). Pub. L. 115–91, §1081(a)(13)(B), substituted “sections 2366(e) and 2366a(d)” for “section 2366(e)”.

Subsecs. (k), (l). Pub. L. 115–91, §1654(a)(1), added subsec. (k) and redesignated former subsec. (k) as (l).

2016—Subsec. (d)(1). Pub. L. 114–328, §1661(a)(1), inserted “, and including with respect to the integrated tactical warning and attack assessment systems, processes, and enablers, and continuity of the governmental functions of the Department of Defense” before period at end.

Subsec. (d)(2)(C). Pub. L. 114–328, §1661(a)(2), inserted “(including space system architectures and associated user terminals and ground segments)” before period at end.

Subsec. (e). Pub. L. 114–328, §1661(c)(1), substituted “During the period preceding January 31, 2021, at the same time each year that the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31, and from time to time after such period at the discretion of the Council,” for “At the same time each year that the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31,” in introductory provisions.

Subsec. (e)(6). Pub. L. 114–328, §1661(c)(2), added par. (6).

Subsecs. (i) to (k). Pub. L. 114–328, §1661(b), added subsecs. (i) and (j) and redesignated former subsec. (i) as (k).

2015—Subsec. (e)(5). Pub. L. 114–92, §1651(3), added par. (5).

Subsecs. (f) to (i). Pub. L. 114–92, §1651(1), (2), added subsec. (f) and redesignated former subsecs. (f) to (h) as (g) to (i), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(b)(14) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1845(c)(2) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

DEPARTMENT OF DEFENSE INSTRUCTION

Pub. L. 115–91, div. A, title XVI, §1654(a)(2), Dec. 12, 2017, 131 Stat. 1759, provided that: “The Secretary of Defense shall issue a Department of Defense Instruction, or revise such an Instruction, to ensure that program managers carry out subsection (k)(1) of section 171a of title 10, United States Code, as added by paragraph (1).”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsecs. (e) and (g)(2) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

EXECUTION AND PROGRAMMATIC OVERSIGHT

Pub. L. 115–91, div. A, title XVI, §1654(b), Dec. 12, 2017, 131 Stat. 1759, provided that:

“(1) DATABASE.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the

Chief Information Officer of the Department of Defense, as Executive Secretary of the Council on Oversight of the National Leadership Command, Control, and Communications System established under section 171a of title 10, United States Code (or a successor to the Chief Information Officer assigned responsibility for policy, oversight, guidance, and coordination for nuclear command and control systems), shall, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, develop a database relating to the execution of all nuclear command, control, and communications acquisition programs of the Department of Defense with an approved Materiel Development Decision. The database shall be updated not less frequently than annually and upon completion of a major program element of such a program.

“(2) DATABASE ELEMENTS.—The database required by paragraph (1) shall include, at a minimum, the following elements for each program described in that paragraph, consistent with Department of Defense Instruction 5000.02:

“(A) Projected dates for Milestones A, B, and C, including cost thresholds and objectives for major elements of life cycle cost.

“(B) Projected dates for program design reviews and critical design reviews.

“(C) Projected dates for developmental and operation tests.

“(D) Projected dates for initial operational capability and final operational capability.

“(E) An acquisition program baseline.

“(F) Program acquisition unit cost and average procurement unit cost.

“(G) Contract type.

“(H) Key performance parameters.

“(I) Key system attributes.

“(J) A risk register.

“(K) Technology readiness levels.

“(L) Manufacturing readiness levels.

“(M) Integration readiness levels.

“(N) Any other critical elements that affect the stability of the program.

“(3) BRIEFINGS.—The co-chairs of the Council on Oversight of the National Leadership Command, Control, and Communications System shall brief the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the status of the database required by paragraph (1)—

“(A) not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017]; and

“(B) upon completion of the database.”

§ 172. Explosive safety board

(a) IN GENERAL.—The Secretary of Defense, acting through a joint board that includes members selected by the Secretaries of the military departments, composed of military officers designated as the chair and voting members of the board for each military department, and other civilian officers and employees of the Department of Defense, as necessary, shall provide oversight on storage and transportation of supplies of ammunition and components thereof for use of the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard, with particular regard to keeping those supplies properly dispersed and stored and to preventing hazardous conditions from arising to endanger life and property inside or outside of storage reservations. When the Coast Guard is not operating as a service in the Department of the Navy, the Secretary of Homeland Security shall appoint an officer of the Coast Guard to serve as a voting member of the board.

(b) OVERSIGHT BY SECRETARIES OF THE MILITARY DEPARTMENTS.—The Secretaries of the

military departments shall provide research, development, test, evaluation, and manufacturing oversight for energetic materials supporting military requirements.

(c) RESPONSIBILITIES OF CHAIR.—The chair of the explosive safety board shall carry out the following responsibilities:

(1) To act as the principal executive representative and advisor of the Secretary on explosive and chemical agent safety matters related to Department of Defense military munitions.

(2) To perform the hazard classification approval duties assigned to the chair.

(3) To preside over meetings of the explosive safety board.

(4) To direct the staff of the explosive safety board.

(5) To perform¹ other functions relating to explosives safety management, as directed by the Assistant Secretary of Defense for Sustainment.

(6) To provide impartial and objective advice related to explosives safety management to the Secretary of Defense and the heads of the military departments.

(7) To serve as the principal representative and advisor of the Department of Defense on matters relating to explosives safety management.

(8) To provide assistance and advice to the Under Secretary of Defense for Acquisition and Sustainment and the Deputy Director of Land Warfare and Munitions in munitions acquisition oversight and technology advancement for Department of Defense military munitions, especially in the areas of explosives and chemical agent safety and demilitarization.

(9) To provide assistance and advice to the Assistant Secretary of Defense for Logistics and Material Readiness in sustainment oversight of Department of Defense military munitions, especially in the areas of explosives and chemical agent safety, storage, transportation, and demilitarization.

(10) To develop and recommend issuances to define the functions of the explosive safety board.

(11) To establish¹ joint hazard classification procedures with covered components of the Department.

(12) To make recommendations to the Under Secretary of Defense for Acquisition and Sustainment with respect to explosives and chemical agent safety tenets and requirements.

(13) To conduct¹ oversight of Department of Defense explosive safety management programs.

(14) To carry out such other responsibilities as the Secretary of Defense determines appropriate.

(d) RESPONSIBILITIES OF EXECUTIVE DIRECTOR AND CIVILIAN MEMBERS.—The executive director and civilian members of the explosive safety board shall—

(1) provide assistance to the chair in carrying out the responsibilities specified in subsection (c); and

¹ So in original.