

# FY2024 NDAA: Department of Defense Office of Cost Assessment and Program Evaluation (CAPE)

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The U.S. Department of Defense's (DOD) Office of Cost Assessment and Program Evaluation (CAPE) provides independent analysis of the cost and performance of major weapons systems and plays a key role in developing the DOD budget. With a current [budget](#) of \$67.9 million and 157 staff, CAPE was established in 2009 pursuant to the unanimously passed Weapon Systems Acquisition Reform Act (WSARA; P.L. 111-23).

The House-passed version of a National Defense Authorization Act for Fiscal Year 2024 (NDAA; H.R. 2670) would repeal the position of director of CAPE, disestablish the office, and authorize the Secretary of Defense to determine where to transfer certain office responsibilities. The Senate-passed [version](#) (S. 2226) included a [Sense of the Senate](#) supporting CAPE's role in providing independent cost assessments but would also modify the responsibilities of the Director of CAPE, among other things.

## Background

[10 U.S.C. §139a](#) and [10 U.S.C. Chapter 222](#) describe CAPE's current statutory duties. The director of CAPE is [appointed](#) by the President and approved by the Senate. CAPE plays a role in both DOD's Planning, Programming, Budgeting, and Execution ([PPBE](#)) process and in the Defense Acquisition System ([DAS](#)). Within PPBE, CAPE informs the assessment of resource requirements in warfighting scenarios; convenes senior leader decision-making [bodies](#); and has primary responsibility for generating a classified budget-related database called the Future Years Defense Program ([FYDP](#)). Within the DAS, CAPE guides and evaluates the [analysis of alternatives](#), which occurs early in the acquisition process; conducts or reviews independent cost estimates and/or lifecycle cost analyses for all Major Defense Acquisition Programs ([MDAPs](#)); and establishes DOD-wide policy and procedures for estimating the total costs of procurement contracts, including multi-year procurements ([MYP](#)).

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# Proposed Legislation

## House-Passed Provision

[Section 902](#) of H.R. 2670 would repeal the position of CAPE Director, disestablish the office, and require the Secretary of Defense to allocate any remaining personnel, functions, and assets to a newly designated DOD office and senior official. By repealing Chapter 222, Title 10 of the U.S. Code, it would also eliminate the statutory requirement for DOD-managed MDAPs to obtain independent cost estimates.

Neither the text of the bill nor the accompanying report provided a rationale for the proposal. A news organization [reported](#) that some lawmakers view CAPE as taking certain actions that have undermined congressional intent, for example, by questioning the need for the Marine Corps to maintain a minimum of 31 amphibious assault ships, as required by law.

In a [Statement of Administration Policy](#) on H.R. 2670, the Biden Administration “strongly” opposed the House provision, calling CAPE “the backbone of DOD’s analytical workforce” responsible for reducing median cost growth in acquisition programs from 27% to 3% since 2009.

## Senate-Passed Provisions

[Section 807](#) of S. 2226 includes a Sense of the Senate provision supporting CAPE’s role in providing independent cost assessments, including by providing timely review and oversight of cost estimates performed by the defense agencies and military departments.

[Section 903](#) would amend 10 U.S.C. §139a, making CAPE responsible for standardizing analytical methodologies within DOD and submitting certain classified reports. The provision would also require the Secretary of Defense to establish 1) an independent Program Evaluation Competitive Analysis Cell to “critically assess” CAPE’s analytical methodologies, assumptions, and data; and 2) a pilot program to conduct strategic portfolio reviews of near-term and mid- to long-term requirements using alternative analytic approaches. Finally, the provision would require the Secretary to establish an “Analysis Working Group” convening key DOD strategic planning stakeholders to assess emerging methodologies, tools, tradecraft, data sets, and applications informing the DAS and PPBE process.

[Section 1636](#) would limit the availability of funds for the office of CAPE until submission of a report on missile defense roles and responsibilities.

## Discussion

[Some observers](#) oppose closing CAPE, defending it as a credible source of independent cost analysis. [Others, such as some of the sources cited in this article](#), have argued that the office is not complying with congressional intent. [Still others](#) make the case that DOD should abolish CAPE but establish a similar organization and update its mandate.

The scope of CAPE’s work represents a major portion of the overall DOD budget. The FY2024 DOD budget [requested](#) \$170 billion for procurement programs and [projected](#) \$871 billion in such requirements across the five-year FYDP. According to the Government Accountability Office’s (GAO) 2023 [Weapons Systems Annual Assessment](#), 14 of 35 selected MDAPs accounted for projected increases of \$50 billion in systems acquisition lifecycle costs. GAO noted that “inconsistent cost data” for other types of defense programs may complicate “DOD’s efforts to maintain oversight.”

Other observers support CAPE’s continued existence but note that the office could benefit from certain improvements. A 2018 RAND [study](#) found that “CAPE lacks sufficient personnel or data to perform all

the cost activities mandated by law or to do them with rigor,” and recommended that the office increase its staff and continue “efforts to address data gaps.” Similarly, an [interim report](#) from the congressionally mandated Commission on PPBE Reform recommends “continued efforts to recruit and retain [CAPE] personnel,” and to pursue “continued efforts to reduce workload and improve analytic capabilities.”

Some Members of the House have previously expressed concerns over CAPE’s transparency and communications with Congress. In a report accompanying the House Armed Services Committee-reported version of the FY2023 NDAA (H.R. 7900; H.Rept. 117-397), the committee required DOD to study CAPE’s effectiveness, noting that “in some instances, the role of CAPE has lacked transparency and proactive discussions with Congress on issues with major budgetary implications have been infrequent.” The report tasked DOD with providing the study to Congress by February 2023. A news outlet published an [unofficial version of this study](#), but DOD has yet to publicly release the study.

While Section 902 of H.R. 2670 would repeal statutory requirements for DOD-managed MDAPs to receive independent cost estimates, DOD would still be responsible for performing many of CAPE’s statutory roles if the provision were enacted. For example, Congress requires DOD to submit an FYDP each year, provide comprehensive materiel-readiness funding estimates, and work with the Department of Energy on certain nuclear security enterprise matters.

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