quisition Pilot Program to utilize the concept of mission-oriented program management.

''(b) POLICIES AND PROCEDURES.—In the case of each defense acquisition program covered by the Defense Acquisition Pilot Program, the Secretary of Defense should prescribe policies and procedures for the interaction of the program manager and the commander of the operational command (or a representative) responsible for the requirement for the equipment acquired, and for the interaction with the commanders of the unified and specified combatant commands. Such policies and procedures should include provisions for enabling the user commands to participate in acceptance testing.''

Pub. L. 103–160, div. A, title VIII, § 835(b), Nov. 30, 1993, 107 Stat. 1717, related to funding for Defense Acquisition Pilot Program, and authorized the Secretary of Defense to expend appropriated sums as necessary to carry out next phase of acquisition program cycle after Secretary determined that objective quantifiable performance expectations relating to execution of that phase had been identified, prior to repeal by Pub. L. 103–355, title V, § 5002(b), Oct. 13, 1994, 108 Stat. 3350.

Pub. L. 103–160, div. A, title VIII, § 839, Nov. 30, 1993, 107 Stat. 1718, provided that:

''(a) COLLECTION AND ANALYSIS OF PERFORMANCE INFORMATION.—The Secretary of Defense shall collect and analyze information on contractor performance under the Defense Acquisition Pilot Program.

''(b) INFORMATION TO BE INCLUDED.—Information collected under subsection (a) shall include the history of the performance of each contractor under the Defense Acquisition Pilot Program contracts and, for each such contract performed by the contractor, a technical evaluation of the contractor's performance prepared by the program manager responsible for the contract.''

Pub. L. 101–510, div. A, title VIII, § 809, Nov. 5, 1990, 104 Stat. 1593, as amended by Pub. L. 102–484, div. A, title VIII, § 811, Oct. 23, 1992, 106 Stat. 2450; Pub. L. 103–160, div. A, title VIII, § 832, Nov. 30, 1993, 107 Stat. 1715, provided that:

''(a) AUTHORITY TO CONDUCT PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program for the purpose of determining the potential for increasing the efficiency and effectiveness of the acquisition process in defense acquisition programs.

''(b) DESIGNATION OF PARTICIPATING PROGRAMS.—(1) Subject to paragraph (2), the Secretary may designate defense acquisition programs for participation in the pilot program.

''(2) The Secretary may designate for participation in the pilot program only those defense acquisition programs specifically authorized to be so designated in a law authorizing appropriations for such program enacted after the date of the enactment of this Act [Nov. 5, 1990].

''(c) CONDUCT OF PILOT PROGRAM.—(1) In the case of each defense acquisition program designated for participation in the pilot program, the Secretary—

''(A) shall conduct the program in accordance with standard commercial, industrial practices; and

''(B) may waive or limit the applicability of any provision of law that is specifically authorized to be waived in the law authorizing appropriations referred to in subsection (b)(2) and that prescribes—

''(i) procedures for the procurement of supplies or services;

''(ii) a preference or requirement for acquisition from any source or class of sources;

''(iii) any requirement related to contractor performance;

''(iv) any cost allowability, cost accounting, or auditing requirements; or

''(v) any requirement for the management of, testing to be performed under, evaluation of, or reporting on a defense acquisition program.

''(2) The waiver authority provided in paragraph (1)(B) does not apply to a provision of law if, as determined by the Secretary—

''(A) a purpose of the provision is to ensure the financial integrity of the conduct of a Federal Government program; or

''(B) the provision relates to the authority of the Inspector General of the Department of Defense.

''(d) PUBLICATION OF POLICIES AND GUIDELINES.—The Secretary shall publish in the Federal Register a proposed memorandum setting forth policies and guidelines for implementation of the pilot program under this section and provide an opportunity for public comment on the proposed memorandum for a period of 60 days after the date of publication. The Secretary shall publish in the Federal Register any subsequent proposed change to the memorandum and provide an opportunity for public comment on each such proposed change for a period of 60 days after the date of publication.

''(e) NOTIFICATION AND IMPLEMENTATION.—(1) The Secretary shall transmit to the congressional defense committees a written notification of each defense acquisition program proposed to be designated by the Secretary for participation in the pilot program.

''(2) If the Secretary proposes to waive or limit the applicability of any provision of law to a defense acquisition program under the pilot program in accordance with this section, the Secretary shall include in the notification regarding that acquisition program—

''(A) the provision of law proposed to be waived or limited;

''(B) the effects of such provision of law on the acquisition, including specific examples;

''(C) the actions taken to ensure that the waiver or limitation will not reduce the efficiency, integrity, and effectiveness of the acquisition process used for the defense acquisition program; and

''(D) a discussion of the efficiencies or savings, if any, that will result from the waiver or limitation.

''(f) LIMITATION ON WAIVER AUTHORITY.—The applicability of the following requirements of law may not be waived or limited under subsection (c)(1)(B) with respect to a defense acquisition program:

''(1) The requirements of this section.

''(2) The requirements contained in any law enacted on or after the date of the enactment of this Act [Nov. 5, 1990] if that law designates such defense acquisition program as a participant in the pilot program, except to the extent that a waiver of such requirement is specifically authorized for such defense acquisition program in a law enacted on or after such date.

''(g) TERMINATION OF AUTHORITY.—The authority to waive or limit the applicability of any law under this section may not be exercised after September 30, 1995.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 139, 1621, 1733, 1737, 2433 of this title.

§ 2431. Weapons development and procurement schedules

(a) The Secretary of Defense shall submit to Congress each calendar year, not later than 45 days after the President submits the budget to Congress under section 1105 of title 31, budget justification documents regarding development and procurement schedules for each weapon system for which fund authorization is required by section 114(a) of this title, and for which any funds for procurement are requested in that budget. The documents shall include data on operational testing and evaluation for each weapon system for which funds for procurement are requested (other than funds requested only for the procurement of units for operational testing and evaluation, or long lead-time items, or both). A weapon system shall also be included in the annual documents required under this subsection in each year thereafter until procurement of that system has been completed or ter-

minated, or the Secretary of Defense certifies, in writing, that such inclusion would not serve any useful purpose and gives his reasons therefor.

(b) Any documents required to be submitted under subsection (a) shall include detailed and summarized information with respect to each weapon system covered and shall specifically include each of the following:

(1) The development schedule, including estimated annual costs until development is completed.

(2) The planned procurement schedule, including the best estimate of the Secretary of Defense of the annual costs and units to be procured until procurement is completed.

(3) To the extent required by the second sentence of subsection (a), the result of all operational testing and evaluation up to the time of the submission of the documents, or, if operational testing and evaluation has not been conducted, a statement of the reasons therefor and the results of such other testing and evaluation as has been conducted.

(4)(A) The most efficient production rate, the most efficient acquisition rate, and the minimum sustaining rate, consistent with the program priority established for such weapon system by the Secretary concerned.

(B) In this paragraph:

(i) The term ''most efficient production rate'' means the maximum rate for each budget year at which the weapon system can be produced with existing or planned plant capacity and tooling, with one shift a day running for eight hours a day and five days a week.

(ii) The term ''minimum sustaining rate'' means the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.

(c) In the case of any weapon system for which procurement funds have not been previously requested and for which funds are first requested by the President in any fiscal year after the Budget for that fiscal year has been submitted to Congress, the same documentation requirements shall be applicable to that system in the same manner and to the same extent as if funds had been requested for that system in that budget.

(Added Pub. L. 93–155, title VIII, §803(a), Nov. 16, 1973, 87 Stat. 614, §139; amended Pub. L. 94–106, title VIII, §805, Oct. 7, 1975, 89 Stat. 538; Pub. L. 96–513, title V, §511(5), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 97–86, title IX, §909(c), Dec. 1, 1981, 95 Stat. 1120; Pub. L. 97–258, §3(b)(1), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 98–525, title XIV, §1405(3), Oct. 19, 1984, 98 Stat. 2621; renumbered §2431 and amended Pub. L. 99–433, title I, §§101(a)(5), 110(d)(12), (g)(6), Oct. 1, 1986, 100 Stat. 995, 1003, 1004; Pub. L. 100–180, div. A, title XIII, §1314(a)(1), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–510, div. A, title XIII, §1301(13), title XIV, §1484(f)(3), Nov. 5, 1990, 104 Stat. 1668, 1717; Pub. L. 103–355, title III, §3001, Oct. 13, 1994, 108 Stat. 3327; Pub. L. 104–106, div. D, title XLIII, §4321(b)(18), Feb. 10, 1996, 110 Stat. 673.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 92–156, title V, §506, Nov. 17, 1971, 85 Stat. 429, prior to repeal by Pub. L. 93–155, §803(b)(2).

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–106, §4321(b)(18)(A)(i), substituted ''Any documents'' for ''Any report'' in first sentence.

Subsec. (b)(3). Pub. L. 104–106, §4321(b)(18)(A)(ii), substituted ''the documents'' for ''the report''.

Subsec. (c). Pub. L. 104–106, §4321(b)(18)(B), substituted ''documentation'' for ''reporting''.

1994—Subsec. (a). Pub. L. 103–355, §3001(a), substituted ''not later than 45 days after'' for ''at the same time'' and ''budget justification documents'' for ''a written report'' in first sentence and ''documents'' for ''report'' in second and third sentences.

Subsec. (b). Pub. L. 103–355, §3001(b)(1), substituted ''include each of the following:'' for ''include—'' in introductory provisions.

Subsec. (b)(1) to (3). Pub. L. 103–355, §3001(b)(2)–(4), capitalized first letter of first word in pars. (1) to (3) and substituted period for semicolon at end of pars. (1) and (2) and period for ''; and'' at end of par. (3).

Subsec. (b)(4). Pub. L. 103–355, §3001(b)(5) amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''the most efficient production rate and the most efficient acquisition rate consistent with the program priority established for such weapon system by the Secretary concerned.''

1990—Subsec. (b). Pub. L. 101–510, §1484(f)(3), substituted ''covered and shall specifically include'' for ''covered, and specifically include, but not be limited to'' in introductory provisions.

Pub. L. 101–510, §1301(13), redesignated subsec. (c) as (b), struck out ''or (b)'' after ''under subsection (a)'', and struck out former subsec. (b) which read as follows: ''The Secretary of Defense shall submit a supplemental report to Congress not less than 30, or more than 90, days before the award of any contract, or the exercise of any option in a contract, for the procurement of any such weapon system (other than procurement of units for operational testing and evaluation, or long lead-time items, or both), unless—

''(1) the contractor or contractors for that system have not yet been selected and the Secretary of Defense determines that the submission of that report would adversely affect the source selection process and notifies Congress in writing, prior to such award, of that determination, stating his reasons therefor; or

''(2) the Secretary of Defense determines that the submission of that report would otherwise adversely affect the vital security interests of the United States and notifies Congress in writing of that determination at least 30 days prior to the award, stating his reasons therefor.''

Subsecs. (c), (d). Pub. L. 101–510, §1301(13)(C), redesignated subsecs. (c) and (d) as (b) and (c), respectively.

1987—Pub. L. 100–180 made technical amendment to directory language of Pub. L. 99–433, §101(a)(5). See 1986 Amendment note below.

1986—Pub. L. 99–433, §101(a)(5), as amended by Pub. L. 100–180, §1314(a)(1), renumbered section 139 of this title as this section.

Pub. L. 99–433, §110(d)(12), substituted ''Weapons development and procurement schedules'' for ''Secretary of Defense: weapons development and procurement schedules for armed forces; reports; supplemental reports'' in section catchline.

Subsec. (a). Pub. L. 99–433, §110(g)(6), substituted ''section 114(a)'' for ''section 138(a)''.

1984—Subsec. (b). Pub. L. 98–525, §1405(3)(B), substituted ''30'' for ''thirty'' and ''90'' for ''ninety'' in introductory text.

Subsec. (b)(2). Pub. L. 98–525, §1405(3)(A), substituted ''30'' for ''thirty''.

1982—Subsec. (a). Pub. L. 97–258 substituted ''section 1105 of title 31'' for ''section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)''.

1981—Subsec. (c)(4). Pub. L. 97–86 added par. (4).

1980—Subsec. (a). Pub. L. 96–513 substituted ''section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)'' for ''section 11 of title 31''.

1975—Subsec. (b). Pub. L. 94–106 substituted ''or more than ninety, days before'' for ''or more than sixty, days before''.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 251 of Title 41, Public Contracts.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–180 applicable as if included in enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. 99–433, see section 1314(e) of Pub. L. 100–180, set out as a note under section 743 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

BALLISTIC MISSILE DEFENSE ORGANIZATION TEST PROGRAM

Pub. L. 107–107, div. A, title II, § 232(c)–(h), Dec. 28, 2001, 115 Stat. 1037–1039, provided that:

''(c) REQUIREMENT FOR ANNUAL PROGRAM GOALS.—(1) The Secretary of Defense shall each year establish cost, schedule, testing, and performance goals for the ballistic missile defense programs of the Department of Defense for the period covered by the future-years defense program that is submitted to Congress that year under section 221 of title 10, United States Code. Not later than February 1 each year, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a statement of the goals so established.

''(2) The statement of goals submitted under paragraph (1) for any year after 2002 shall be an update of the statement submitted under that paragraph for the preceding year.

''(3) Each statement of goals submitted under paragraph (1) shall set forth cost, schedule, testing, and performance goals that pertain to each functional area program element identified in subsection (a), and each program element identified in subsection (b), of section 223 of title 10, United States Code.

''(d) ANNUAL PROGRAM PLAN.—(1) With the submission of the statement of goals under subsection (c) for any year, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a program of activities planned to be carried out for each missile defense program that enters engineering and manufacturing development (as defined in section 223(b)(2) of title 10, United States Code, as added by subsection (b)).

''(2) Each program plan under paragraph (1) shall include the following:

''(A) A funding profile that includes an estimate of—

''(i) the total expenditures to be made in the fiscal year in which the plan is submitted and the following fiscal year, together with the estimated total life-cycle costs of the program; and

''(ii) a display of such expenditures (shown for significant procurement, construction, and research and development) for the fiscal year in which the plan is submitted and the following fiscal year.

''(B) A program schedule for the fiscal year in which the plan is submitted and the following fiscal year for each of the following:

''(i) Significant procurement.

''(ii) Construction.

''(iii) Research and development.

''(iv) Flight tests.

''(v) Other significant testing activities.

''(3) Information specified in paragraph (2) need not be included in the plan for any year under paragraph (1) to the extent such information has already been provided, or will be provided in the current fiscal year, in annual budget justification documents of the Department of Defense submitted to Congress or in other required reports to Congress.

''(e) INTERNAL DOD REVIEWS.—(1) The officials and elements of the Department of Defense specified in paragraph (2) shall on an ongoing basis—

''(A) review the development of goals under subsection (c) and the annual program plan under subsection (d); and

''(B) provide to the Secretary of Defense and the Director of the Ballistic Missile Defense Organization any comments on such matters as considered appropriate.

''(2) Paragraph (1) applies with respect to the following:

''(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

''(B) The Director of Operational Test and Evaluation.

''(C) The Director of Program Analysis and Evaluation.

''(D) The Joint Requirements Oversight Council.

''(E) The Cost Analysis and Improvement Group.

''(f) DEMONSTRATION OF CRITICAL TECHNOLOGIES.—(1) The Director of the Ballistic Missile Defense Organization shall develop a plan for ensuring that each critical technology for a missile defense program is successfully demonstrated in an appropriate environment before that technology enters into operational service as part of a missile defense program.

''(2) The Director of Operational Test and Evaluation of the Department of Defense shall monitor the development of the plan under paragraph (1) and shall submit to the Director of the Ballistic Missile Defense Organization any comments regarding that plan that the Director of Operational Test and Evaluation considers appropriate.

''(g) COMPTROLLER GENERAL ASSESSMENT.—(1) At the conclusion of each of fiscal years 2002 and 2003, the Comptroller General of the United States shall assess the extent to which the Ballistic Missile Defense Organization achieved the goals established under subsection (c) for such fiscal year.

''(2) Not later than February 15, 2003, and February 15, 2004, the Comptroller General shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the Comptroller General's assessment under paragraph (1) with respect to the preceding fiscal year.

''(h) ANNUAL OT&E ASSESSMENT OF TEST PROGRAM.—(1) The Director of Operational Test and Evaluation shall each year assess the adequacy and sufficiency of the Ballistic Missile Defense Organization test program during the preceding fiscal year.

''(2) Not later than February 15 each year the Director shall submit to the congressional defense committees a report on the assessment under paragraph (1) with respect to the preceding fiscal year.''

MISSILE DEFENSE TESTING INITIATIVE

Pub. L. 107–107, div. A, title II, § 234, Dec. 28, 2001, 115 Stat. 1039, provided that:

''(a) TESTING INFRASTRUCTURE.—(1) The Secretary of Defense shall ensure that each annual budget request of the Department of Defense—

''(A) is designed to provide for comprehensive testing of ballistic missile defense programs during early stages of development; and

''(B) includes necessary funding to support and improve test infrastructure and provide adequate test assets for the testing of such programs.

''(2) The Secretary shall ensure that ballistic missile defense programs incorporate, to the greatest possible

extent, operationally realistic test configurations (referred to as 'test bed' configurations) to demonstrate system performance across a broad range of capability and, during final stages of operational testing, to demonstrate reliable performance.

''(3) The Secretary shall ensure that the test infrastructure for ballistic missile defense programs is capable of supporting continued testing of ballistic missile defense systems after deployment.

''(b) REQUIREMENTS FOR EARLY STAGES OF SYSTEM DEVELOPMENT.—In order to demonstrate acceptable risk and developmental stability, the Secretary of Defense shall ensure that any ballistic missile defense program incorporates, to the maximum extent practicable, the following elements during the early stages of system development:

''(1) Pursuit of parallel conceptual approaches and technological paths for all critical problematic components until effective and reliable solutions can be demonstrated.

''(2) Comprehensive ground testing in conjunction with flight-testing for key elements of the proposed system that are considered to present high risk, with such ground testing to make use of existing facilities and combinations of facilities that support testing at the highest possible levels of integration.

''(3) Where appropriate, expenditures to enhance the capabilities of existing test facilities, or to construct new test facilities, to support alternative complementary test methodologies.

''(4) Sufficient funding of test instrumentation to ensure accurate measurement of all critical test events.

''(5) Incorporation into the program of sufficient schedule flexibility and expendable test assets, including missile interceptors and targets, to ensure that failed or aborted tests can be repeated in a prudent, but expeditious manner.

''(6) Incorporation into flight-test planning for the program, where possible, of—

''(A) methods that make the most cost-effective use of test opportunities;

''(B) events to demonstrate engagement of multiple targets, 'shoot-look-shoot', and other planned operational concepts; and

''(C) exploitation of opportunities to facilitate early development and demonstration of 'family of systems' concepts.

''(c) SPECIFIC REQUIREMENTS FOR GROUND-BASED MIDCOURSE INTERCEPTOR SYSTEMS.—For ground-based midcourse interceptor systems, the Secretary of Defense shall initiate steps during fiscal year 2002 to establish a flight-test capability of launching not less than three missile defense interceptors and not less than two ballistic missile targets to provide a realistic test infrastructure.''

NATIONAL MISSILE DEFENSE POLICY

Pub. L. 106–38, §2, July 22, 1999, 113 Stat. 205, provided that: ''It is the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate) with funding subject to the annual authorization of appropriations and the annual appropriation of funds for National Missile Defense.''

NATIONAL MISSILE DEFENSE PROGRAM

Pub. L. 105–85, div. A, title II, §231, Nov. 18, 1997, 111 Stat. 1661, provided that:

''(a) PROGRAM STRUCTURE.—To preserve the option of achieving an initial operational capability in fiscal year 2003, the Secretary of Defense shall ensure that the National Missile Defense Program is structured and programmed for funding so as to support a test, in fiscal year 1999, of an integrated national missile defense system that is representative of the national missile defense system architecture that could achieve initial operational capability in fiscal year 2003.

''(b) ELEMENTS OF NMD SYSTEM.—The national missile defense system architecture specified in subsection (a) shall consist of the following elements:

''(1) An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited ballistic missile attack (whether accidental, unauthorized, or deliberate).

''(2) Ground-based radars.

''(3) Space-based sensors.

''(4) Battle management, command, control, and communications (BM/C^3).

''(c) PLAN FOR NMD SYSTEM DEVELOPMENT AND DEPLOYMENT.—Not later than February 15, 1998, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] a plan for the development and deployment of a national missile defense system that could achieve initial operational capability in fiscal year 2003. The plan shall include the following matters:

''(1) A detailed description of the system architecture selected for development.

''(2) A discussion of the justification for the selection of that particular architecture.

''(3) The Secretary's estimate of the amounts of the appropriations that would be necessary for research, development, test, evaluation, and for procurement for each of fiscal years 1999 through 2003 in order to achieve an initial operational capability of the system architecture in fiscal year 2003.

''(4) For each activity necessary for the development and deployment of the national missile defense system architecture selected by the Secretary that would at some point conflict with the terms of the ABM Treaty, if any—

''(A) a description of the activity;

''(B) a description of the point at which the activity would conflict with the terms of the ABM Treaty;

''(C) the legal analysis justifying the Secretary's determination regarding the point at which the activity would conflict with the terms of the ABM Treaty; and

''(D) an estimate of the time at which such point would be reached in order to achieve a test of an integrated missile defense system in fiscal year 1999 and initial operational capability of such a system in fiscal year 2003.

''(d) FUNDING FOR FISCAL YEAR 1998.—Of the funds authorized to be appropriated under section 201(4) [111 Stat. 1655], $978,091,000 shall be available for the National Missile Defense Program.

''(e) ABM TREATY DEFINED.—In this section, the term 'ABM Treaty' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972, and includes the Protocol to that treaty, signed at Moscow on July 3, 1974.''

MEMORANDUM OF UNDERSTANDING FOR USE OF NATIONAL LABORATORIES FOR BALLISTIC MISSILE DEFENSE PROGRAMS

Pub. L. 106–398, §1 [div. C, title XXXI, §3132], Oct. 30, 2000, 114 Stat. 1654, 1654A–455, provided that:

''(a) JOINTLY FUNDED PROJECTS.—The Secretary of Energy and the Secretary of Defense shall modify the memorandum of understanding for the use of the national laboratories for ballistic missile defense programs, entered into under section 3131 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2034; 10 U.S.C. 2431 note), to provide for jointly funded projects.

''(b) REQUIREMENTS FOR PROJECTS.—The projects referred to in subsection (a) shall—

''(1) be carried out by the National Nuclear Security Administration and the Ballistic Missile Defense Organization; and

''(2) contribute to sustaining—

''(A) the expertise necessary for the viability of such laboratories; and

''(B) the capabilities required to sustain the nuclear stockpile.

''(c) PARTICIPATION BY NNSA IN CERTAIN BMDO ACTIVITIES.—The Administrator for Nuclear Security and the Director of the Ballistic Missile Defense Organization shall implement mechanisms that increase the cooperative relationship between those organizations. Those mechanisms may include participation by personnel of the National Nuclear Security Administration in the following activities of the Ballistic Missile Defense Organization:

''(1) Peer reviews of technical efforts.

''(2) Activities of so-called 'red teams'.''

Pub. L. 105–85, div. C, title XXXI, § 3131, Nov. 18, 1997, 111 Stat. 2034, provided that:

''(a) MEMORANDUM OF UNDERSTANDING.—The Secretary of Energy and the Secretary of Defense shall enter into a memorandum of understanding for the purpose of improving and facilitating the use by the Secretary of Defense of the expertise of the national laboratories for the ballistic missile defense programs of the Department of Defense.

''(b) ASSISTANCE.—The memorandum of understanding shall provide that the Secretary of Defense shall request such assistance with respect to the ballistic missile defense programs of the Department of Defense as the Secretary of Defense and the Secretary of Energy determine can be provided through the technical skills and experience of the national laboratories, using such financial arrangements as the Secretaries determine are appropriate.

''(c) ACTIVITIES.—The memorandum of understanding shall provide that the national laboratories shall carry out those activities necessary to respond to requests for assistance from the Secretary of Defense referred to in subsection (b). Such activities may include the identification of technical modifications and test techniques, the analysis of physics problems, the consolidation of range and test activities, and the analysis and simulation of theater missile defense deployment problems.

''(d) NATIONAL LABORATORIES.—For purposes of this section, the national laboratories are—

''(1) the Lawrence Livermore National Laboratory, Livermore, California;

''(2) the Los Alamos National Laboratory, Los Alamos, New Mexico; and

''(3) the Sandia National Laboratories, Albuquerque, New Mexico.''

BALLISTIC MISSILE DEFENSE PROGRAM

Subtitle C of title II of div. A of Pub. L. 104–106, as amended by Pub. L. 105–85, div. A, title II, § 236, Nov. 18, 1997, 111 Stat. 1665; Pub. L. 106–65, div. A, title X, § 1067(6), Oct. 5, 1999, 113 Stat. 774, provided that:

''SEC. 231. SHORT TITLE.

''This subtitle may be cited as the 'Ballistic Missile Defense Act of 1995'.

''SEC. 232. FINDINGS.

''Congress makes the following findings:

''(1) The emerging threat that is posed to the national security interests of the United States by the proliferation of ballistic missiles is significant and growing, both in terms of numbers of missiles and in terms of the technical capabilities of those missiles.

''(2) The deployment of ballistic missile defenses is a necessary, but not sufficient, element of a broader strategy to discourage both the proliferation of weapons of mass destruction and the proliferation of the means of their delivery and to defend against the consequences of such proliferation.

''(3) The deployment of effective Theater Missile Defense systems can deter potential adversaries of the United States from escalating a conflict by threatening or attacking United States forces or the forces or territory of coalition partners or allies of the United States with ballistic missiles armed with weapons of mass destruction to offset the operational and technical advantages of the United States and its coalition partners and allies.

''(4) United States intelligence officials have provided intelligence estimates to congressional committees that (A) the trend in missile proliferation is toward longer range and more sophisticated ballistic missiles, (B) North Korea may deploy an intercontinental ballistic missile capable of reaching Alaska or beyond within five years, and (C) although a new, indigenously developed ballistic missile threat to the continental United States is not foreseen within the next ten years, determined countries can acquire intercontinental ballistic missiles in the near future and with little warning by means other than indigenous development.

''(5) The development and deployment by the United States and its allies of effective defenses against ballistic missiles of all ranges will reduce the incentives for countries to acquire such missiles or to augment existing missile capabilities.

''(6) The concept of mutual assured destruction (based upon an offense-only form of deterrence), which is the major philosophical rationale underlying the ABM Treaty, is now questionable as a basis for stability in a multipolar world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

''(7) The development and deployment of a National Missile Defense system against the threat of limited ballistic missile attacks—

''(A) would strengthen deterrence at the levels of forces agreed to by the United States and Russia under the Strategic Arms Reduction Talks Treaty (START–I); and

''(B) would further strengthen deterrence if reductions below the levels permitted under START–I should be agreed to and implemented in the future.

''(8) The distinction made during the Cold War, based upon the technology of the time, between strategic ballistic missiles and nonstrategic ballistic missiles, which resulted in the distinction made in the ABM Treaty between strategic defense and nonstrategic defense, has become obsolete because of technological advancement (including the development by North Korea of long-range Taepo-Dong I and Taepo-Dong II missiles) and, therefore, that distinction in the ABM Treaty should be reviewed.

''SEC. 233. BALLISTIC MISSILE DEFENSE POLICY.

''It is the policy of the United States—

''(1) to deploy affordable and operationally effective theater missile defenses to protect forward-deployed and expeditionary elements of the Armed Forces of the United States and to complement the missile defense capabilities of forces of coalition partners and of allies of the United States; and

''(2) to seek a cooperative, negotiated transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

''SEC. 234. THEATER MISSILE DEFENSE ARCHITECTURE.

''(a) ESTABLISHMENT OF CORE PROGRAM.—To implement the policy established in paragraph (1) of section 233, the Secretary of Defense shall restructure the core theater missile defense program to consist of the following systems:

''(1) The Patriot PAC–3 system.

''(2) The Navy Area Defense system.

''(3) The Theater High-Altitude Area Defense (THAAD) system.

''(4) The Navy Theater Wide system.

''(b) USE OF STREAMLINED ACQUISITION PROCEDURES.—The Secretary of Defense shall prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing and deploying the theater missile defense systems specified in subsection (a).

''(c) INTEROPERABILITY AND SUPPORT OF CORE SYSTEMS.—To maximize effectiveness and flexibility of the

systems comprising the core theater missile defense program, the Secretary of Defense shall ensure that those systems are integrated and complementary and are fully capable of exploiting external sensor and battle management support from systems such as—

''(A) the Cooperative Engagement Capability (CEC) system of the Navy;

''(B) airborne sensors; and

''(C) space-based sensors (including, in particular, the Space and Missile Tracking System).

''(d) FOLLOW-ON SYSTEMS.—(1) The Secretary of Defense shall prepare an affordable development plan for theater missile defense systems to be developed as follow-on systems to the core systems specified in subsection (a). The Secretary shall make the selection of a system for inclusion in the plan based on the capability of the system to satisfy military requirements not met by the systems in the core program and on the capability of the system to use prior investments in technologies, infrastructure, and battle-management capabilities that are incorporated in, or associated with, the systems in the core program.

''(2) The Secretary may not proceed with the development of a follow-on theater missile defense system beyond the Demonstration/Validation stage of development unless the Secretary designates that system as a part of the core program under this section and submits to the congressional defense committees [Committees on Armed Services and on Appropriations of the Senate and House of Representatives] notice of that designation. The Secretary shall include with any such notification a report describing—

''(A) the requirements for the system and the specific threats that such system is designed to counter;

''(B) how the system will relate to, support, and build upon existing core systems;

''(C) the planned acquisition strategy for the system; and

''(D) a preliminary estimate of total program cost for that system and the effect of development and acquisition of such system on Department of Defense budget projections.

''(e) PROGRAM ACCOUNTABILITY REPORT.—(1) As part of the annual report of the Ballistic Missile Defense Organization required by section 224 of Public Law 101–189 (10 U.S.C. 2431 note), the Secretary of Defense shall describe the technical milestones, the schedule, and the cost of each phase of development and acquisition (together with total estimated program costs) for each core and follow-on theater missile defense program.

''(2) As part of such report, the Secretary shall describe, with respect to each program covered in the report, any variance in the technical milestones, program schedule milestones, and costs for the program compared with the information relating to that program in the report submitted in the previous year and in the report submitted in the first year in which that program was covered.

''(f) REPORTS ON TMD SYSTEM LIMITATIONS UNDER ABM TREATY.—(1) Whenever, after January 1, 1993, the Secretary of Defense issues a certification with respect to the compliance of a particular Theater Missile Defense system with the ABM Treaty, the Secretary shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a copy of such certification. Such transmittal shall be made not later than 30 days after the date on which such certification is issued, except that in the case of a certification issued before the date of the enactment of this Act [Feb. 10, 1996], such transmittal shall be made not later than 60 days after the date of the enactment of this Act.

''(2) If a certification under paragraph (1) is based on application of a policy concerning United States compliance with the ABM Treaty that differs from the policy described in section 235(b)(1), the Secretary shall include with the transmittal under that paragraph a report providing a detailed assessment of—

''(A) how the policy applied differs from the policy described in section 235(b)(1); and

''(B) how the application of that policy (rather than the policy described in section 235(b)(1)) will affect the cost, schedule, and performance of that system.

''SEC. 235. PROHIBITION ON USE OF FUNDS TO IMPLEMENT AN INTERNATIONAL AGREEMENT CONCERNING THEATER MISSILE DEFENSE SYSTEMS.

''(a) FINDINGS.—(1) Congress hereby reaffirms—

''(A) the finding in [former] section 234(a)(7) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1595; 10 U.S.C. 2431 note) that the ABM Treaty was not intended to, and does not, apply to or limit research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles, regardless of the capabilities of such missiles, unless those systems, system upgrades, or system components are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles; and

''(B) the statement in section 232 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2700) that the United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution.

''(2) Congress also finds that the demarcation standard described in subsection (b)(1) for compliance of a missile defense system, system upgrade, or system component with the ABM Treaty is based upon current technology.

''(b) SENSE OF CONGRESS CONCERNING COMPLIANCE POLICY.—It is the sense of Congress that—

''(1) unless a missile defense system, system upgrade, or system component (including one that exploits data from space-based or other external sensors) is flight tested in an ABM-qualifying flight test (as defined in subsection (e)), that system, system upgrade, or system component has not, for purposes of the ABM Treaty, been tested in an ABM mode nor been given capabilities to counter strategic ballistic missiles and, therefore, is not subject to any application, limitation, or obligation under the ABM Treaty; and

''(2) any international agreement that would limit the research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles in a manner that would be more restrictive than the compliance criteria specified in paragraph (1) should be entered into only pursuant to the treaty making powers of the President under the Constitution.

''(c) PROHIBITION ON FUNDING.—Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1996 may not be obligated or expended to implement an agreement, or any understanding with respect to interpretation of the ABM Treaty, between the United States and any of the independent states of the former Soviet Union entered into after January 1, 1995, that—

''(1) would establish a demarcation between theater missile defense systems and anti-ballistic missile systems for purposes of the ABM Treaty; or

''(2) would restrict the performance, operation, or deployment of United States theater missile defense systems.

''(d) EXCEPTIONS.—Subsection (c) does not apply—

''(1) to the extent provided by law in an Act enacted after this Act [Pub. L. 104–106, enacted Feb. 10, 1996];

''(2) to expenditures to implement that portion of any such agreement or understanding that implements the policy set forth in subsection (b)(1); or

''(3) to expenditures to implement any such agreement or understanding that is approved as a treaty or by law.

''(e) ABM-QUALIFYING FLIGHT TEST DEFINED.—For purposes of this section, an ABM-qualifying flight test is a flight test against a ballistic missile which, in that flight test, exceeds (1) a range of 3,500 kilometers, or (2) a velocity of 5 kilometers per second.

''SEC. 236. BALLISTIC MISSILE DEFENSE COOPERATION WITH ALLIES.

''It is in the interest of the United States to develop its own missile defense capabilities in a manner that will permit the United States to complement the missile defense capabilities developed and deployed by its allies and possible coalition partners. Therefore, the Congress urges the President—

''(1) to pursue high-level discussions with allies of the United States and selected other states on the means and methods by which the parties on a bilateral basis can cooperate in the development, deployment, and operation of ballistic missile defenses;

''(2) to take the initiative within the North Atlantic Treaty Organization to develop consensus in the Alliance for a timely deployment of effective ballistic missile defenses by the Alliance; and

''(3) in the interim, to seek agreement with allies of the United States and selected other states on steps the parties should take, consistent with their national interests, to reduce the risks posed by the threat of limited ballistic missile attacks, such steps to include—

''(A) the sharing of early warning information derived from sensors deployed by the United States and other states;

''(B) the exchange on a reciprocal basis of technical data and technology to support both joint development programs and the sale and purchase of missile defense systems and components; and

''(C) operational level planning to exploit current missile defense capabilities and to help define future requirements.

''SEC. 237. ABM TREATY DEFINED.

''For purposes of this subtitle, the term 'ABM Treaty' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

''SEC. 238. REPEAL OF MISSILE DEFENSE ACT OF 1991.

''The Missile Defense Act of 1991 [Pub. L. 102–190, div. A, title II, part C] (10 U.S.C. 2431 note) is repealed.''

COMPLIANCE OF BALLISTIC MISSILE DEFENSE SYSTEMS AND COMPONENTS WITH ABM TREATY

Pub. L. 103–337, div. A, title II, § 231, Oct. 5, 1994, 108 Stat. 2699, provided that:

''(a) GENERAL LIMITATION.—Funds appropriated to the Department of Defense for fiscal year 1995, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1995 or for any fiscal year before 1995, may not be obligated or expended—

''(1) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter; or

''(2) for the acquisition of any material or equipment (including long lead materials, components, piece parts, or test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

''(b) LIMITATION RELATING TO BRILLIANT EYES.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201 [108 Stat. 2690] that are made available for the space-based, midcourse missile tracking system known as the Brilliant Eyes program, not more than $80,000,000 may be obligated until the Secretary of Defense submits to the appropriate congressional committees a report on the compliance of that program with the ABM Treaty, as determined under the compliance review conducted pursuant to subsection (c).

''(c) COMPLIANCE REVIEW FOR BRILLIANT EYES.—The Secretary of Defense shall review the Brilliant Eyes program to determine whether, and under what conditions, the development, testing, and deployment of the Brilliant Eyes missile tracking system in conjunction with a theater ballistic missile defense system, with a limited national missile defense system, and with both such systems, would be in compliance with the ABM Treaty, including the interpretation of that treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

''(d) COMPLIANCE REVIEW FOR NAVY UPPER TIER SYSTEM.—(1) The Secretary of Defense shall review the theater ballistic missile program known as the Navy Upper Tier program to determine whether the development, testing, and deployment of the system being developed under that program would be in compliance with the ABM Treaty, including the interpretation of the Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

''(2) Of the funds made available to the Department of Defense for fiscal year 1995, not more than $40,000,000 may be obligated for the Navy Upper Tier program before the date on which the Secretary submits to the appropriate congressional committees a report on the compliance of that program with the ABM Treaty, as determined under the compliance review under paragraph (1).

''(e) DEFINITIONS.—In this section:

''(1) The term 'July 13, 1993, ACDA letter' means the letter dated July 13, 1993, from the Acting Director of the Arms Control and Disarmament Agency to the chairman of the Committee on Foreign Relations of the Senate relating to the correct interpretation of the ABM Treaty and accompanied by an enclosure setting forth such interpretation.

''(2) The term 'ABM Treaty' means the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed in Moscow on May 26, 1972.

''(3) The term 'appropriate congressional committees' means—

''(A) the Committee on Armed Services, the Committee on Foreign Affairs [now Committee on International Relations], and the Committee on Appropriations of the House of Representatives; and

''(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.''

Pub. L. 103–160, div. A, title II, § 234, Nov. 30, 1993, 107 Stat. 1595, contained findings of Congress, required compliance review, and limited funding pending submission of report, prior to repeal by Pub. L. 104–106, div. A, title II, § 253(6), Feb. 10, 1996, 110 Stat. 235.

THEATER MISSILE DEFENSE MASTER PLAN

Pub. L. 103–160, div. A, title II, § 235, Nov. 30, 1993, 107 Stat. 1598, provided that:

''(a) INTEGRATION AND COMPATIBILITY.—In carrying out the Theater Missile Defense Initiative, the Secretary of Defense shall—

''(1) seek to maximize the use of existing systems and technologies; and

''(2) seek to promote joint use by the military departments of existing and future ballistic missile defense equipment (rather than each military department developing its own systems that would largely overlap in their capabilities).

The Secretaries of the military departments shall seek the maximum integration and compatibility of their ballistic missile defense systems as well as of the respective roles and missions of those systems.

''(b) TMD MASTER PLAN.—The Secretary of Defense shall submit to Congress a report (which shall constitute the TMD master plan) containing a thorough

and complete analysis of the future of theater missile defense programs. The report shall include the following:

''(1) A description of the mission and scope of Theater Missile Defense.

''(2) A description of the role of each of the Armed Forces in Theater Missile Defense.

''(3) A description of how those roles interact and complement each other.

''(4) An evaluation of the cost and relative effectiveness of each interceptor and sensor under development as part of a Theater Missile Defense system by the Ballistic Missile Defense Organization.

''(5) A detailed acquisition strategy which includes an analysis and comparison of the projected acquisition and life-cycle costs of each Theater Missile Defense system intended for production (shown separately for research, development, test, and evaluation, for procurement, for operation and maintenance, and for personnel costs for each system).

''(6) Specification of the baseline production rate for each year of the program through completion of procurement.

''(7) An estimate of the unit cost and capabilities of each system.

''(8) A description of plans for theater and tactical missile defense doctrine, training, tactics, and force structure.

''(c) DESCRIPTION OF TESTING PROGRAM.—The Secretary of Defense shall include in the report under subsection (b)—

''(1) a description of the current and projected testing program for Theater Missile Defense systems and major components; and

''(2) an evaluation of the adequacy of the testing program to simulate conditions similar to those the systems and components would actually be expected to encounter if and when deployed (such as the ability to track and engage multiple targets with multiple interceptors, to discriminate targets from decoys and other incoming objects, and to be employed in a shoot-look-shoot firing mode).

''(d) RELATIONSHIP TO ARMS CONTROL TREATIES.—The Secretary shall include in the report under subsection (b) a statement of how production and deployment of any projected Theater Missile Defense program will conform to all relevant arms control agreements. The report shall describe any potential noncompliance with any such agreement, when such noncompliance is expected to occur, and whether provisions need to be renegotiated within that agreement to address future contingencies.

''(e) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted as part of the next annual report of the Secretary submitted to Congress under section 224 of Public Law 101–189 (10 U.S.C. 2431 note).

''(f) OBJECTIVES OF PLAN.—In preparing the master plan, the Secretary shall—

''(1) seek to maximize the use of existing technologies (such as SM–2, AEGIS, Patriot, and THAAD) rather than develop new systems;

''(2) seek to maximize integration and compatibility among the systems, roles, and missions of the military departments; and

''(3) seek to promote cross-service use of existing equipment (such as development of Army equipment for the Marine Corps or ground utilization of an air or sea system).

''(g) REVIEW AND REPORT ON DEPLOYMENT OF BALLISTIC MISSILE DEFENSES.—(1) The Secretary of Defense shall conduct an intensive and extensive review of opportunities to streamline the weapon systems acquisition process applicable to the development, testing, and deployment of theater ballistic missile defenses with the objective of reducing the cost of deployment and accelerating the schedule for deployment without significantly increasing programmatic risk or concurrency.

''(2) In conducting the review, the Secretary shall obtain recommendations and advice from—

''(A) the Defense Science Board;

''(B) the faculty of the Industrial College of the Armed Forces; and

''(C) federally funded research and development centers supporting the Office of the Secretary of Defense.

''(3) Not later than May 1, 1994, the Secretary shall submit to the congressional defense committees a report on the Secretary's findings resulting from the review under paragraph (1), together with any recommendations of the Secretary for legislation. The Secretary shall submit the report in unclassified form, but may submit a classified version of the report if necessary to clarify any of the information in the findings or recommendations or any related information. The report may be submitted as part of the next annual report of the Secretary submitted to Congress under section 224 of Public Law 101–189 (10 U.S.C. 2431 note).''

COOPERATION OF UNITED STATES ALLIES ON DEVELOPMENT OF TACTICAL AND THEATER MISSILE DEFENSES

Pub. L. 103–160, div. A, title II, §242(a)–(e), Nov. 30, 1993, 107 Stat. 1603–1605, stated congressional findings, required Secretary of Defense to develop plan to coordinate development and implementation of Theater Missile Defense programs of United States with theater missile defense programs of allies of United States, specified contents of such plan, required Secretary to submit to Congress report on such plan in both classified and unclassified versions, required Secretary to include in each annual Theater Missile Defense Initiative report to Congress report on actions taken to implement such plan, specified contents of such report, related to restriction on funds, stated sense of Congress that whenever United States deployed theater ballistic missile defenses to protect country that had not provided support for development of such defenses United States was to consider seeking reimbursement from such country to cover at least incremental cost of such deployment, and related to congressional encouragement of allies of United States to participate in cooperative Theater Missile Defense programs of United States and encouragement of participation by United States in cooperative theater missile defense efforts of allied nations, prior to repeal by Pub. L. 104–106, div. A, title II, §253(7), Feb. 10, 1996, 110 Stat. 235.

TRANSFER OF FOLLOW-ON TECHNOLOGY PROGRAMS

Pub. L. 103–160, div. A, title II, §243, Nov. 30, 1993, 107 Stat. 1605, as amended by Pub. L. 104–201, div. A, title X, §1073(e)(1)(E), Sept. 23, 1996, 110 Stat. 2658, provided that:

''(a) MANAGEMENT RESPONSIBILITY.—Except as provided in subsection (b), the Secretary of Defense shall provide that management and budget responsibility for research and development of any program, project, or activity to develop far-term follow-on technology relating to ballistic missile defense shall be provided through the Defense Advanced Research Projects Agency or the appropriate military department.

''(b) WAIVER AUTHORITY.—The Secretary may waive the provisions of subsection (a) in the case of a particular program, project, or activity if the Secretary certifies to the congressional defense committees that it is in the national security interest of the United States to provide management and budget responsibility for that program, project, or activity through the Ballistic Missile Defense Organization.

''(c) REPORT REQUIRED.—As a part of the report required by section 231(e) [107 Stat. 1593], the Secretary shall submit to the congressional defense committees a report identifying—

''(1) each program, project, and activity with respect to which the Secretary has transferred management and budget responsibility from the Ballistic Missile Defense Organization in accordance with subsection (a);

''(2) the agency or military department to which each such transfer was made; and

''(3) the date on which each such transfer was made.

''(d) DEFINITION.—For the purposes of this section, the term 'far-term follow-on technology' means a technology that is not incorporated into a ballistic missile defense architecture and is not likely to be incorporated within 15 years into a weapon system for ballistic missile defense.

''(e) CONFORMING AMENDMENT.—Section 234 of the Missile Defense Act of 1991 [Pub. L. 102–190; 10 U.S.C. 2431 note] is repealed.''

THEATER MISSILE DEFENSE INITIATIVE

Pub. L. 102–484, div. A, title II, § 231, Oct. 23, 1992, 106 Stat. 2354, provided that:

''(a) ESTABLISHMENT OF THEATER MISSILE DEFENSE INITIATIVE.—The Secretary of Defense shall establish a Theater Missile Defense Initiative office within the Department of Defense. All theater and tactical missile defense activities of the Department of Defense (including all programs, projects, and activities formerly associated with the Theater Missile Defense program element of the Strategic Defense Initiative) shall be carried out under the Theater Missile Defense Initiative.

''(b) FUNDING FOR FISCAL YEAR 1993.—Of the amounts appropriated pursuant to section 201 [106 Stat. 2349] or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $935,000,000 may be obligated for activities of the Theater Missile Defense Initiative, of which not less than $90,000,000 shall be made available for exploration of promising concepts for naval theater missile defense.

''(c) REPORT.—When the President's budget for fiscal year 1994 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees a report—

''(1) setting forth the proposed allocation by the Secretary of funds for the Theater Missile Defense Initiative for fiscal year 1994, shown for each program, project, and activity;

''(2) describing an updated master plan for the Theater Missile Defense Initiative that includes (A) a detailed consideration of plans for theater and tactical missile defense doctrine, training, tactics, and force structure, and (B) a detailed acquisition strategy which includes a consideration of acquisition and life-cycle costs through the year 2005 for the programs, projects, and activities associated with the Theater Missile Defense Initiative;

''(3) assessing the possible near-term contribution and cost-effectiveness for theater missile defense of exoatmospheric capabilities, to include at a minimum a consideration of—

''(A) the use of the Navy's Standard missile combined with a kick stage rocket motor and lightweight exoatmospheric projectile (LEAP); and

''(B) the use of the Patriot missile combined with a kick stage rocket motor and LEAP.

''(d) EFFECTIVE DATE.—The provisions of subsections (a), (b), and (c) shall be implemented not later than 90 days after the date of the enactment of this Act [Oct. 23, 1992].''

MISSILE DEFENSE PROGRAM

Pub. L. 102–190, div. A, title II, part C, Dec. 5, 1991, 105 Stat. 1321, as amended by Pub. L. 102–484, div. A, title II, § 234(a)–(d)(1), (e), (f), title X, § 1053(1), (2), Oct. 23, 1992, 106 Stat. 2356, 2357, 2501; Pub. L. 103–35, title II, §§ 202(a)(2), 203(b)(1), May 31, 1993, 107 Stat. 101, 102; Pub. L. 103–160, div. A, title II, §§ 232, 243(e), Nov. 30, 1993, 107 Stat. 1593, 1606; Pub. L. 103–337, div. A, title II, § 233, Oct. 5, 1994, 108 Stat. 2700, specified that such provisions could be cited as the ''Missile Defense Act of 1991'', and related to missile defense goal of United States, implementation of goal, review of follow-on deployment options, definition of term ''ABM Treaty'', and interpretation of such provisions, prior to repeal by Pub. L. 104–106, div. A, title II, § 238, Feb. 10, 1996, 110 Stat. 233.

Similar provisions were contained in the following prior authorization act:

Pub. L. 101–510, div. A, title II, § 221, Nov. 5, 1990, 104 Stat. 1511.

STRETCHOUT OF MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 100–456, div. A, title I, § 117, 102 Stat. 1933, as amended by Pub. L. 104–106, div. D, title XLIII, § 4321(i)(3), Feb. 10, 1996, 110 Stat. 676, required Secretary of Defense to submit a stretchout impact statement for certain major defense acquisition programs at same time the budget for any fiscal year is submitted to Congress and to submit to Committees on Armed Services of Senate and House of Representatives, no later than Mar. 15, 1989, a report on feasibility and effect of establishing maximum production rates by December 1990 for certain major defense acquisition programs, prior to repeal by Pub. L. 105–85, div. A, title X, § 1041(c), Nov. 18, 1997, 111 Stat. 1885.

PROHIBITION OF CERTAIN CONTRACTS WITH FOREIGN ENTITIES

Section 222 of Pub. L. 100–180 provided that:

''(a) SDI CONTRACTS WITH FOREIGN ENTITIES.—Funds appropriated to or for the use of the Department of Defense may not be used for the purpose of entering into or carrying out any contract with a foreign government or a foreign firm if the contract provides for the conduct of research, development, test, or evaluation in connection with the Strategic Defense Initiative program.

''(b) TEMPORARY SUSPENSION OF PROHIBITION UPON CERTIFICATION OF THE SECRETARY OF DEFENSE.—The prohibition in subsection (a) shall not apply to a contract in any fiscal year if the Secretary of Defense certifies to Congress in writing at any time during such fiscal year that the research, development, testing, or evaluation to be performed under such contract cannot be competently performed by a United States firm at a price equal to or less than the price at which the research, development, testing, or evaluation would be performed by a foreign firm.

''(c) EXCEPTIONS FOR CERTAIN CONTRACTS.—The prohibition in subsection (a) shall not apply to a contract awarded to a foreign government or foreign firm if—

''(1) the contract is to be performed within the United States;

''(2) the contract is exclusively for research, development, test, or evaluation in connection with antitactical ballistic missile systems; or

''(3) that foreign government or foreign firm agrees to share a substantial portion of the total contract cost.

''(d) DEFINITIONS.—In this section:

''(1) The term 'foreign firm' means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

''(2) The term 'United States firm' means a business entity other than a foreign firm.

''(e) TRANSITION.—The prohibition in subsection (a) shall not apply to a contract entered into before the date of the enactment of this Act [Dec. 4, 1987].''

LIMITATION ON TRANSFER OF CERTAIN MILITARY TECHNOLOGY TO INDEPENDENT STATES OF FORMER SOVIET UNION

Section 223 of Pub. L. 100–180, as amended by Pub. L. 103–199, title II, § 203(a)(1), Dec. 17, 1993, 107 Stat. 2321, provided that: ''Military technology developed with funds appropriated or otherwise made available for the Ballistic Missile Defense Program may not be transferred (or made available for transfer) to Russia or any other independent state of the former Soviet Union by the United States (or with the consent of the United States) unless the President determines, and certifies to the Congress at least 15 days prior to any such trans-

fer, that such transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace.''

SDI ARCHITECTURE TO REQUIRE HUMAN DECISION MAKING

Section 224 of Pub. L. 100–180 provided that: ''No agency of the Federal Government may plan for, fund, or otherwise support the development of command and control systems for strategic defense in the boost or post-boost phase against ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative human decision at an appropriate level of authority.''

PROHIBITION ON DEPLOYMENT OF ANTI-BALLISTIC MISSILE SYSTEM UNLESS AUTHORIZED BY LAW

Section 226 of Pub. L. 100–180 prohibited Secretary of Defense from deploying anti-ballistic missile system unless such deployment was specifically authorized by law after Dec. 4, 1987, prior to repeal by Pub. L. 104–106, div. A, title II, § 253(3), Feb. 10, 1996, 110 Stat. 234.

ESTABLISHMENT OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT SDI PROGRAM

Section 227 of Pub. L. 100–180 provided that:

''(a) FINDINGS.—The Congress makes the following findings:

''(1) The Department of Defense requires technical support for issues of system integration related to the Strategic Defense Initiative program.

''(2) The Strategic Defense Initiative Organization, after assessing alternative types of organizations for the provision of such technical support to the Strategic Defense Initiative program (including Government organizations, profit and nonprofit entities (including existing federally funded research and development centers), a new division within an existing federally funded research and development center, a new federally funded research and development center, colleges and universities, and private nonprofit laboratories), determined that a new federally funded research and development center (hereinafter in this section referred to as an 'FFRDC') would be the type of organization most appropriate for the provision of such technical support to the Strategic Defense Initiative program.

''(3) In providing such technical support to the SDI program, the new FFRDC should provide critical evaluation and rigorous and objective analysis of technologies, systems, and architectures that are candidates for use in the SDI program.

''(4) Competitive selection of a contractor to establish and operate such an FFRDC to support the Strategic Defense Initiative program is one way to enhance the prospects for independent and objective evaluation of system integration issues within the Strategic Defense Initiative program.

''(b) AUTHORITY TO CONTRACT FOR FFRDC.—The Secretary of Defense, using funds appropriated to the Department of Defense for the Strategic Defense Initiative program, may enter into a contract to provide for the establishment and operation of a federally funded research and development center to provide independent and objective technical support to the Strategic Defense Initiative program. Such a contract may not be awarded before October 1, 1989.

''(c) CONTRACT AWARD REQUIREMENTS.—(1) A contract under subsection (b) shall be awarded using competitive procedures which emphasize cost considerations.

''(2) The Secretary of Defense shall solicit proposals for such contract from existing federally funded research and development centers, from universities, from commercial entities, and from appropriate new organizations and shall make maximum efforts to obtain more than one proposal for such contract.

''(3) The Secretary shall submit the three best contract proposals (as determined by the Secretary), together with a copy of the proposed sponsoring agreement for the new FFRDC, for review by three persons designated by the Defense Science Board from a list of six or more persons submitted by the National Academy of Sciences. The persons performing the review—

''(A) shall evaluate the extent to which each proposal and the proposed sponsoring agreement would foster competent and objective technical advice for the Strategic Defense Initiative Program; and

''(B) shall report their evaluation of each such proposal and of the proposed sponsoring agreement to the Secretary.

''(4) Before awarding a contract under subsection (b), and not sooner than March 30, 1989, the Secretary shall submit to Congress—

''(A) a copy of the proposed final contract; and

''(B) a copy of the proposed final sponsoring agreement relating to the operation of the new FFRDC.

''(5)(A) The Secretary shall then withhold the award of such contract and the approval of such sponsoring agreement for a period of at least 30 days of continuous session of Congress beginning on the day after the date on which Congress receives the copies referred to in paragraph (4).

''(B) For purposes of subparagraph (A), the continuity of a session of Congress is broken only by an adjournment sine die at the end of the second regular session of that Congress. In computing the 30-day period for such purposes, days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded.

''(d) REQUIREMENTS APPLICABLE TO FFRDC.—The Secretary of Defense shall—

''(1) require that the contract referred to in subsection (b) include a provision stating that no officer or employee of the Department of Defense shall have the authority to veto the employment of any person selected to serve as an officer or employee of the new FFRDC;

''(2) require that at least 5 percent of the total amount of funds available for the new FFRDC shall be set aside for independent research to be performed by the staff of the new FFRDC under the direction of the chief executive officer of the new FFRDC;

''(3) impose a limitation on the compensation payable to each senior executive of the new FFRDC for services performed for the new FFRDC so that such compensation shall be comparable to the amount of compensation payable to senior executives of comparable federally funded research and development centers for similar services;

''(4) require that the new FFRDC publicly disclose the salary of its chief executive officer;

''(5) prohibit current or former members of the Strategic Defense Initiative Advisory Committee from serving as members of the Board of Trustees of the FFRDC if such members constitute 10 or more percent of the Board of Trustees or from serving as officers of the new FFRDC;

''(6) require that the contract referred to in subsection (b) include a provision prohibiting members of such Board of Trustees from serving as officers of the new FFRDC, except that a Board member may serve as the President of the new FFRDC if the Board is comprised of 10 or more members;

''(7) require that the contract referred to in subsection (b) include a provision prohibiting the new FFRDC from employing any person who, as a Federal employee or member of the Armed Forces, served in the Strategic Defense Initiative Organization within two years before the date on which such person is to be employed by the new FFRDC; and

''(8) require that any contract referred to in subsection (b) require that the Board of Trustees of the new FFRDC be comprised of individuals who represent a reasonable cross-section of views on the engineering and scientific issues associated with the Strategic Defense Initiative Program.

''(e) FUNDING.—The Secretary of Defense shall provide that all funds for the new FFRDC within the Department of Defense budget for any fiscal year shall be

separately identified and set forth in the budget presentation materials submitted to Congress for that fiscal year.

''(f) SUNSET PROVISION.—No Federal funds may be provided to the new FFRDC after the end of the five-year period beginning on the date of the award of the first contract awarded to the FFRDC under this section.''

LIMITATION ON ESTABLISHMENT OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER FOR STRATEGIC DEFENSE INITIATIVE PROGRAM

Pub. L. 99–661, div. A, title II, § 213, Nov. 14, 1986, 100 Stat. 3841, provided that:

''(a) LIMITATION.—The Secretary of Defense may not obligate or expend any funds for the purpose of operating a Federally funded research and development center that is established for the support of the Strategic Defense Initiative Program after the date of the enactment of this Act [Nov. 14, 1986] unless—

''(1) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report with respect to such proposed center that provides the information described in subsection (b); and

''(2) funds are specifically authorized to be appropriated for such purpose after the date of the enactment of this Act in an Act other than—

''(A) an appropriations Act; or

''(B) a continuing resolution.

''(b) CONTENT OF REPORT.—A report submitted under subsection (a)(1) with respect to a proposed center shall include a discussion of—

''(1) the ability of existing Federally funded research and development centers, Federal research laboratories, and private contractors to perform the objectives of technological integration and evaluation required by the Strategic Defense Initiative Organization;

''(2) the comparative cost of having the proposed work performed by—

''(A) the Strategic Defense Initiative Organization;

''(B) Federally funded research and development centers in existence on the date of the enactment of this Act [Nov. 14, 1986];

''(C) by Federal research laboratories;

''(D) by private contractors; or

''(E) by such center;

''(3) whether such center is intended to be—

''(A) primarily a study and analysis center; or

''(B) primarily a system engineering/system integration center;

''(4) whether such center will be required or authorized to enter into contracts under which research projects would be performed by other Federally funded research and development centers, Federal research laboratories, or private contractors;

''(5) whether the contract to operate such center will be awarded on a competitive basis;

''(6) whether proposals with respect to the operation of such center—

''(A) will be considered by the appropriate Defense Agency; and

''(B) will be subjected to review by persons to be elected by the National Academy of Sciences;

''(7) whether such center will be designed to prevent even the possibility of an appearance of a conflict of interest—

''(A) by prohibiting any officer, employee, or member of the governing body of such center from holding any position with—

''(i) the Strategic Defense Initiative Organization; or

''(ii) a private contractor that has a substantial interest in the development of the Strategic Defense Initiative; and

''(B) by prohibiting more than one-half of the members of the governing body of the proposed Federally Funded Research Center from simultaneously holding any position with the Strategic Defense Initiative Advisory Committee or any similar body which provides technological, scientific, or strategic advice to the Department of Defense about the Strategic Defense Initiative;

''(8) whether other actions will be taken to avoid possible conflict of interest situations within such center;

''(9) the role of the Department of Defense in—

''(A) the selection of the staff of such center; and

''(B) the internal organization of such center; and

''(10) whether a prescribed minimum percentage of the annual budget of such center will be set aside for research to be conducted independently of the Department of Defense.

''(c) COMPTROLLER GENERAL REPORT.—The Comptroller General of the United States shall also submit a report to Congress providing an analysis of the items in subsection (b) as appropriate.''

SHOULD-COST ANALYSES

Pub. L. 99–145, title IX, § 915, Nov. 8, 1985, 99 Stat. 688, as amended by Pub. L. 100–26, § 11(a)(2), Apr. 21, 1987, 101 Stat. 288, required Secretary of Defense to submit to Congress an annual report setting forth Secretary's plan for performance during next fiscal year of cost analyses for major defense acquisition programs for purpose of determining how much production of covered systems under such programs should cost, prior to repeal by Pub. L. 101–510, div. A, title XIII, § 1322(d)(2), Nov. 5, 1990, 104 Stat. 1672.

REQUIREMENT FOR SPECIFIC AUTHORIZATION FOR DEPLOYMENT OF STRATEGIC DEFENSE INITIATIVE SYSTEM

Pub. L. 99–145, title II, § 222, Nov. 8, 1985, 99 Stat. 613, provided that strategic defense system developed as consequence of research, development, test, and evaluation conducted on Strategic Defense Initiative program could not be deployed in whole or in part unless President made a certain determination and certification to Congress and funding for deployment of such system was specifically authorized by legislation enacted after date of certification, prior to repeal by Pub. L. 104–106, div. A, title II, § 253(1), Feb. 10, 1996, 110 Stat. 234.

ANNUAL REPORT ON BALLISTIC MISSILE DEFENSE PROGRAM

Pub. L. 101–189, div. A, title II, § 224, Nov. 29, 1989, 103 Stat. 1398, as amended by Pub. L. 103–160, div. A, title II, § 240, Nov. 30, 1993, 107 Stat. 1603; Pub. L. 104–201, div. A, title II, § 244, Sept. 23, 1996, 110 Stat. 2463, provided that not later than March 15 of each year, the Secretary of Defense was to transmit to Congress a report on the programs and projects that constitute the Ballistic Missile Defense program and on any other program or project relating to defense against ballistic missiles, prior to repeal by Pub. L. 106–65, div. A, title X, § 1032(b)(1), Oct. 5, 1999, 113 Stat. 751.

Pub. L. 100–180, div. A, title II, § 231(a), Dec. 4, 1987, 101 Stat. 1059, provided that not later than Mar. 15, 1988 and Mar. 15, 1989, the Secretary of Defense was to transmit to Congress a report on the programs that constitute the Strategic Defense Initiative and on any other program relating to defense against ballistic missiles.

Pub. L. 98–525, title XI, § 1102, Oct. 19, 1984, 98 Stat. 2580, required Secretary of Defense, at time of his annual budget presentation to Congress beginning with fiscal year 1986 and ending with fiscal year 1990, to transmit to Committees on Armed Services and Foreign Affairs of House of Representatives and Committees on Armed Services and Foreign Relations of Senate, a detailed report on programs that constitute SDI, prior to repeal by Pub. L. 100–180, div. A, title II, § 231(b), Dec. 4, 1987, 101 Stat. 1060.

PLANS FOR MANAGEMENT OF TECHNICAL DATA AND COMPUTER CAPABILITY IMPROVEMENTS

Section 1252 of Pub. L. 98–525 directed Secretary of Defense, not later than one year after Oct. 19, 1984, to

develop a plan for an improved system for the management of technical data relating to any major system of the Department of Defense and, not later than 5 years after Oct. 19, 1984, to complete implementation of the management plan, directed Comptroller General, not later than 18 months after Oct. 19, 1984, to transmit to Congress a report evaluating the plan developed, and directed Secretary of Defense, not later than 180 days after Oct. 19, 1984, to transmit to Congress a plan to improve substantially the computer capability of each of the military departments and of the Defense Logistics Agency to store and access rapidly data that is needed for the efficient procurement of supplies.

CONSULTATION WITH ALLIES ON STRATEGIC DEFENSE INITIATIVE PROGRAM

Pub. L. 98–473, title I, §101(h)[title VIII, §8104], Oct. 12, 1984, 98 Stat. 1904, 1942, provided that: ''It is the sense of the Congress that—(a) the President shall inform and make every effort to consult with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning the research being conducted in the Strategic Defense Initiative program. (b) The Secretary of Defense, in coordination with the Secretary of State and the Director of the Arms Control and Disarmament Agency, shall at the time of the submission of the annual budget presentation materials for each fiscal year beginning after September 30, 1984, report to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and Foreign Affairs [now International Relations] of the House of Representatives on the status of the consultations referred to under subsection (a).''

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of Title 22, Foreign Relations and Intercourse.]

ANTISATELLITE WEAPONS TEST

Pub. L. 100–180, div. A, title II, §208, Dec. 4, 1986, 101 Stat. 1048, provided that:

''(a) TESTING MORATORIUM.—The Secretary of Defense may not carry out a test of the Space Defense System (antisatellite weapon) involving the F–15 launched miniature homing vehicle against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act [Dec. 4, 1987], a test against an object in space of a dedicated antisatellite weapon.

''(b) EXPIRATION.—The prohibition in subsection (a) expires on October 1, 1988.''

Pub. L. 99–661, div. A, title II, §231, Nov. 14, 1986, 100 Stat. 3847, provided that:

''(a) ASAT TESTING MORATORIUM.—The Secretary of Defense may not carry out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act [Nov. 14, 1986], a test against an object in space of a dedicated anti-satellite weapon.

''(b) EXPIRATION.—The prohibition in subsection (a) expires on October 1, 1987.''

Similar provisions were contained in the following prior acts:

Pub. L. 99–500, §101(c) [title XI, §1101], Oct. 18, 1986, 100 Stat. 1783–82, 1783–177, and Pub. L. 99–591, §101(c) [title XI, §1101], Oct. 30, 1986, 100 Stat. 3341–82, 3341–177.

Pub. L. 99–190, §101(b) [title VIII, §8097], Dec. 19, 1985, 99 Stat. 1185, 1219.

Pub. L. 99–145, title II, §208(a), (b), Nov. 8, 1985, 99 Stat. 610, provided that:

''(a) REQUIREMENT REGARDING THE USE OF FUNDS.—None of the funds appropriated pursuant to an authorization in this or any other Act may be obligated or expended to test against an object in space the miniature homing vehicle (MHV) anti-satellite warhead launched from an F–15 aircraft unless the President has made a determination and a certification to the Congress as provided in section 8100 of the Department of Defense Appropriations Act, 1985 [set out as a note below] (as contained in section 101(h) of Public Law 98–473 (98 Stat. 1941)).

''(b) LIMITATION ON NUMBER OF TESTS.—Not more than three tests described in subsection (a) may be conducted before October 1, 1986.''

Pub. L. 98–473, title I, §101(h)[title VIII, §8100], Oct. 12, 1984, 98 Stat. 1904, 1941, provided that:

''(a) Notwithstanding any other provision of law, none of the funds appropriated or made available in this or any other Act may be obligated or expended to test against an object in space the miniature homing vehicle (MHV) anti-satellite warhead launched from an F–15 aircraft unless the President determines and certifies to Congress—

''(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on anti-satellite weapons consistent with the national security interests of the United States;

''(2) that, pending agreement on such strict limitations, testing against objects in space of the F–15 launched miniature homing vehicle anti-satellite warhead by the United States is necessary to avert clear and irrevocable harm to the national security;

''(3) that such testing would not constitute an irreversible step that would gravely impair prospects for negotiations on anti-satellite weapons; and

''(4) that such testing is fully consistent with the rights and obligations of the United States under the Anti-Ballistic Missile Treaty of 1972 as those rights and obligations exist at the time of such testing.

''(b) During fiscal year 1985, funds appropriated for the purpose of testing the F–15 launched miniature homing vehicle anti-satellite warhead may not be used to conduct more than three tests of that warhead against objects in space.

''(c) The limitation on the expenditure of funds provided by subsection (a) of this section shall cease to apply fifteen calendar days after the date of the receipt by Congress of the certification referred to in subsection (a) or March 1, 1985, whichever occurs later.''

Similar provisions were contained in the following prior authorization act:

Pub. L. 98–94, title XI, §1235, Sept. 24, 1983, 97 Stat. 695; as amended by Pub. L. 98–525, title II, §205, Oct. 19, 1984, 98 Stat. 2509.

EAST COAST TRIDENT BASE AND MX MISSILE SYSTEM SITES; USE OF FUNDS APPROPRIATED TO DEPARTMENT OF DEFENSE; ASSISTANCE TO NEARBY COMMUNITIES TO HELP MEET COSTS OF INCREASED MUNICIPAL SERVICES

Pub. L. 96–418, title VIII, §802, Oct. 10, 1980, 94 Stat. 1775, as amended by Pub. L. 97–99, title IX, §904(b), Dec. 23, 1981, 95 Stat. 1382; Pub. L. 98–115, title VIII, §805, Oct. 11, 1983, 97 Stat. 785; Pub. L. 101–510, div. A, title XIII, §1322(f), Nov. 5, 1990, 104 Stat. 1672, provided that:

''(a) The Secretary of Defense (hereinafter in this section referred to as the 'Secretary') may assist communities located near MX Missile System sites and communities located near the East Coast Trident Base, and the States in which such communities are located, in meeting the costs of providing increased municipal services and facilities to the residents of such communities, if the Secretary determines that there is an immediate and substantial increase in the need for such services and facilities in such communities as a direct result of work being carried out in connection with the construction, installation, or operation of the MX Missile System or the East Coast Trident Base, as the case may be, and that an unfair and excessive financial burden will be incurred by such communities, or the States in which such communities are located, as a result of such increased need for such services and facilities.

''(b)(1) Whenever possible, the Secretary shall carry out the program of assistance authorized under this section through existing Federal programs. In carrying out such program of assistance, the Secretary may—

''(A) supplement funds made available under existing Federal programs through a direct transfer of funds from the Secretary to the department or agency concerned in such amounts as the Secretary considers necessary;

''(B) provide financial assistance to communities described in subsection (a) to help such communities pay their share of the costs under such programs;

''(C) guarantee State or municipal indebtedness, and make interest payments, in whole or in part, for State or municipal indebtedness, for improved public facilities related to the MX Missile System site or the East Coast Trident Base, as the case may be; and

''(D) make direct grants to or on behalf of communities described in subsection (a) in cases in which Federal programs (or funds for such programs) do not exist or are not sufficient to meet the costs of providing increased municipal services and facilities to the residents of such communities.

''(2) The head of each department and agency shall cooperate fully with the Secretary in carrying out the provisions of this section on a priority basis.

''(3) Notwithstanding any other provision of law, the Secretary, in cooperation with the heads of other departments and agencies of the Federal Government, may provide assistance under this section in anticipation of the work to be carried out in connection with the MX Missile System sites or the East Coast Trident Base, as the case may be.

''(c) In determining the amount of financial assistance to be made available under this section to any local community for any community service or facility, the Secretary shall consult with the head of the department or agency concerned with the type of service or facility for which financial assistance is being made available and shall take into consideration—

''(1) the time lag between the initial impact of increased population in any such community and any increase in the local tax base which will result from such increased population;

''(2) the possible temporary nature of the increased population and the long-range cost impact on the permanent residents of any such community;

''(3) the initial capitalization required for municipal sewer and water systems;

''(4) the initial operating cost for upgrading municipal services; and

''(5) such other pertinent factors as the Secretary considers appropriate.

''(d) Funds appropriated to the Department of Defense for carrying out the MX Missile System deployment program and the East Coast Trident Base may, to the extent specifically authorized in Military Construction Authorization Acts, be used by the Secretary to provide assistance under this section.''

MX Missile and Basing Mode

Pub. L. 96–342, title II, § 202, Sept. 8, 1980, 94 Stat. 1079, provided that:

''(a) The Congress finds that a survivable land-based intercontinental ballistic missile (ICBM) system is vital to the security of the United States and to a stable strategic balance between the United States and the Soviet Union and that timely deployment of a new basing mode is essential to the survivability of this Nation's land-based intercontinental ballistic missiles. It is, therefore, the purpose of this section to commit the Congress to the development and deployment of the MX missile system, consisting of 200 missiles and 4,600 hardened shelters, and to insure that deployment of the entire MX system is carried out as soon as practicable.

''(b) The Secretary of Defense shall proceed immediately with the full-scale engineering development of the MX missile and a Multiple Protective Structure (MPS) basing mode and shall continue such development in a manner that will achieve an Initial Operational Capability of such missile and basing mode not later than December 31, 1986.

''(c) Notwithstanding any other provision of law, the initial phase of construction shall be limited to 2,300 protective shelters for the MX missile in the initial deployment area.

''(d) In accordance with the finding of the Congress expressed in subsection (a), a full system of at least 4,600 protective shelters may be deployed in the initial deployment area if, after completion of a study to be conducted by the Secretary of Defense of an alternate site for a portion of the system, it is determined by the Congress that adverse cost, military considerations, or other reasons preclude split basing.''

Development of MX Missile System

Pub. L. 96–29, title II, § 202, June 27, 1979, 93 Stat. 79, provided that:

''(a) It is the sense of the Congress that maintaining a survivable land-based intercontinental ballistic missile system is vital to the security of the United States and that development of a new basing mode for land-based intercontinental ballistic missiles is necessary to assure the survivability of the land-based system. To this end, the development of the MX missile, together with a new basing mode for such missile, should proceed so as to achieve Initial Operational Capability (IOC) for both such missile and such basing mode at the earliest practicable date.

''(b) In addition, it is the sense of the Congress that the basing mode for the MX missile should be restricted to location on the least productive land available that is suitable for such purpose.

''(c) In accordance with the sense of Congress expressed in subsection (a), the Secretary of Defense shall proceed immediately with full scale engineering development of the missile basing mode known as the Multiple Protective Structure (MPS) system concurrently with full scale engineering development of the MX missile, unless and until the Secretary of Defense certifies to the Congress that an alternative basing mode is militarily or technologically superior to, and is more cost effective than, the MPS system or the President informs the Congress that in his view the MPS system is not consistent with United States national security interests.

''(d) Nothing in this section shall be construed to prohibit or restrict the study of alternative basing modes for land-based intercontinental ballistic missiles.''

Reports to Congress of Acquisitions for Major Defense Systems

Section 811 of Pub. L. 94–106, as amended by Pub. L. 96–107, title VIII, § 809, Nov. 9, 1979, 93 Stat. 815; Pub. L. 97–86, title IX, § 917(e), Dec. 1, 1981, 95 Stat. 1131, which required reports to Congress respecting acquisitions of major defense systems, including total program acquisition unit costs, was repealed by Pub. L. 97–252, title XI, § 1107(b), Sept. 8, 1982, 96 Stat. 746, effective Jan. 1, 1983, as provided in section 1107(c) of Pub. L. 97–252, set out as an Effective Date note under section 2432 of this title. See sections 2432 and 2433 of this title.

Trident Support Site, Bangor, Washington; Financial Aid to Local Communities; Reports

Section 608 of Pub. L. 93–552, title VI, Dec. 27, 1974, 88 Stat. 1763, provided:

''(a) The Secretary of Defense is authorized to assist communities located near the TRIDENT Support Site Bangor, Washington, in meeting the costs of providing increased municipal services and facilities to the residents of such communities, if the Secretary determines that there is an immediate and substantial increase in the need for such services and facilities in such communities as a direct result of work being carried out in connection with the construction, installation, testing, and operation of the TRIDENT Weapon System and that an unfair and excessive financial burden will be incurred by such communities as a result of the increased need for such services and facilities.

''(b) The Secretary of Defense shall carry out the provisions of this section through existing Federal programs. The Secretary is authorized to supplement

funds made available under such Federal programs to the extent necessary to carry out the provisions of this section, and is authorized to provide financial assistance to communities described in subsection (a) of this section to help such communities pay their share of the costs under such programs. The heads of all departments and agencies concerned shall cooperate fully with the Secretary of Defense in carrying out the provisions of this section on a priority basis.

''(c) In determining the amount of financial assistance to be made available under this section to any local community for any community service or facility, the Secretary of Defense shall consult with the head of the department or agency of the Federal Government concerned with the type of service or facility for which financial assistance is being made available and shall take into consideration (1) the time lag between the initial impact of increased population in any such community and any increase in the local tax base which will result from such increased population, (2) the possible temporary nature of the increased population and the long-range cost impact on the permanent residents of any such community, and (3) such other pertinent factors as the Secretary of Defense deems appropriate.

''(d) Any funds appropriated to the Department of Defense for the fiscal year beginning July 1, 1974, for carrying out the TRIDENT Weapon System shall be utilized by the Secretary of Defense in carrying out the provisions of this section to the extent that funds are unavailable under other Federal programs. Funds appropriated to the Department of Defense for any fiscal year beginning after June 30, 1975, for carrying out the TRIDENT Weapon System may, to the extent specifically authorized in an annual Military Construction Authorization Act, be utilized by the Secretary of Defense in carrying out the provision of this section to the extent that funds are unavailable under other Federal programs.

''(e) The Secretary shall transmit to the Committees on Armed Services of the Senate and the House of Representatives semiannual reports indicating the total amount expended in the case of each local community which was provided assistance under the authority of this section during the preceding six-month period, the specific projects for which assistance was provided during such period, and the total amount provided for each such project during such period.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2432 of this title.

§ 2432. Selected Acquisition Reports

(a) In this section:

(1) The term ''program acquisition unit cost'', with respect to a major defense acquisition program, means the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, the acquisition program, divided by (B) the number of fully-configured end items to be produced for the acquisition program.

(2) The term ''procurement unit cost'', with respect to a major defense acquisition program, means the amount equal to (A) the total of all funds programmed to be available for obligation for procurement for the program, divided by (B) the number of fully-configured end items to be procured.

(3) The term ''major contract'', with respect to a major defense acquisition program, means each of the six largest prime, associate, or Government-furnished equipment contracts under the program that is in excess of $40,000,000 and that is not a firm, fixed price contract.

(4) The term ''full life-cycle cost'', with respect to a major defense acquisition program, means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.

(b)(1) The Secretary of Defense shall submit to Congress at the end of each fiscal-year quarter a report on current major defense acquisition programs. Except as provided in paragraphs (2) and (3), each such report shall include a status report on each defense acquisition program that at the end of such quarter is a major defense acquisition program. Reports under this section shall be known as Selected Acquisition Reports.

(2) A status report on a major defense acquisition program need not be included in the Selected Acquisition Report for the second, third, or fourth quarter of a fiscal year if such a report was included in a previous Selected Acquisition Report for that fiscal year and during the period since that report there has been—

(A) less than a 15 percent increase in program acquisition unit cost and current procurement unit cost; and

(B) less than a six-month delay in any program schedule milestone shown in the Selected Acquisition Report.

(3)(A) The Secretary of Defense may waive the requirement for submission of Selected Acquisition Reports for a program for a fiscal year if—

(i) the program has not entered system development and demonstration;

(ii) a reasonable cost estimate has not been established for such program; and

(iii) the system configuration for such program is not well defined.

(B) The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of each waiver under subparagraph (A) for a program for a fiscal year not later than 60 days before the President submits the budget to Congress pursuant to section 1105 of title 31 in that fiscal year.

(c)(1) Each Selected Acquisition Report for the first quarter for a fiscal year shall include—

(A) the same information, in detailed and summarized form, as is provided in reports submitted under section 2431 of this title;

(B) the current program acquisition unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted;

(C) the current procurement unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted; and

(D) such other information as the Secretary of Defense considers appropriate.

(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be designed to provide to the Committee on Armed Services of