

- missile defense capabilities.
5535. Development of requirements to support integrated air and missile defense capabilities.
5536. Testing and assessment of missile defense systems prior to production and deployment.
5537. Limitation on Missile Defense Agency production of satellites and ground systems associated with operation of such satellites.

SUBCHAPTER IV—MISSILE DEFENSE
INFORMATION

5551. Prohibitions relating to missile defense information and systems.
5552. Biannual briefing on missile defense and related activities.
5553. Provision of information on flight testing of ground-based midcourse national missile defense system.

SUBCHAPTER I—ORGANIZATION

§ 5501. National missile defense policy

It is the policy of the United States—

(1) to research, develop, test, procure, deploy, and sustain, with funding subject to the annual authorization of appropriations for National Missile Defense, systems that provide effective, layered missile defense capabilities to defeat increasingly complex missile threats in all phases of flight; and

(2) to rely on nuclear deterrence to address more sophisticated and larger quantity near-peer intercontinental missile threats to the homeland of the United States.

(Added Pub. L. 118–159, div. A, title XVI, § 1649(a), Dec. 23, 2024, 138 Stat. 2187.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 114–328, div. A, title XVI, § 1681(a), Dec. 23, 2016, 130 Stat. 2623, as amended by Pub. L. 116–92, div. A, title XVI, § 1681(a), Dec. 20, 2019, 133 Stat. 1781; Pub. L. 118–31, div. A, title XVI, § 1663, Dec. 22, 2023, 137 Stat. 603, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, § 1649(b)(3), Dec. 23, 2024, 138 Stat. 2199.

Statutory Notes and Related Subsidiaries

CONGRESSIONAL NOTIFICATION REQUIREMENT WITH RESPECT TO INCIDENTS THAT AFFECT AVAILABILITY OF UNITED STATES HOMELAND MISSILE DEFENSES

Pub. L. 118–159, div. A, title XVI, § 1646, Dec. 23, 2024, 138 Stat. 2185, provided that:

“(a) REQUIREMENT.—If the Secretary of Defense determines that an incident has affected the availability of the ground-based midcourse defense system, or has impeded the function of such system, in a manner that inhibits the capability of such system to adequately respond to the operational mission of such system as required by the Commander of the United States Northern Command, the Secretary shall submit to the appropriate Members of Congress a notification of such incident by not later than 24 hours after the Secretary makes such determination.

“(b) APPROPRIATE MEMBERS OF CONGRESS DEFINED.—In this section, the term ‘appropriate Members of Congress’ means each chair and ranking member of the congressional defense committees [Committees on

Armed Services and Appropriations of the Senate and the House of Representatives].”

DESIGNATION OF A SENIOR DEFENSE OFFICIAL RESPONSIBLE FOR ESTABLISHMENT OF NATIONAL INTEGRATED AIR AND MISSILE DEFENSE ARCHITECTURE FOR THE UNITED STATES

Pub. L. 118–159, div. A, title XVI, § 1655, Dec. 23, 2024, 138 Stat. 2202, provided that:

“(a) REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall designate a senior official of the Department of Defense who shall be responsible, subject to appropriations, for the establishment of a national integrated air and missile defense architecture for the United States.

“(b) DUTIES.—The duties of the official designated under subsection (a) shall include the following:

“(1) Designing the national integrated air and missile defense architecture for the United States.

“(2) Overseeing development of an integrated missile defense acquisition strategy for the United States.

“(3) Evaluating the budget requests of each military department and Defense Agency to ensure such budget requests are sufficient to enable the development of such defense architecture.

“(4) Siting the integrated missile defense systems comprising such defense architecture.

“(5) Overseeing long-term acquisition and sustainment of such defense architecture.

“(6) Such other duties as the Secretary determines appropriate.

“(c) TERMINATION.—The authority of this section shall terminate on the date that is 90 days after the date on which the official designated under subsection (a) determines that the national integrated air and missile defense architecture for the United States has achieved initial operational capability.”

§ 5502. Missile defense agency¹

(a) APPOINTMENT OF DIRECTOR.—The Director of the Missile Defense Agency shall be a general or flag officer appointed for a six-year term.

(b) DEPUTY DIRECTOR.—(1) There is a Deputy Director of the Missile Defense Agency, who shall be appointed by the Secretary of Defense from among the general officers on active duty in the Army, Air Force, Marine Corps, or Space Force, or from among the flag officers on active duty in the Navy. In selecting an individual to serve as the Deputy Director, the Secretary of Defense shall select an individual who serves in a different armed force than the armed force in which the Director serves.

(2) The Deputy Director shall be appointed for a term of not fewer than two, and not more than four years.

(3) The Deputy Director shall be under the authority, direction, and control of the Director of the Missile Defense Agency.

(4) The Deputy Director shall—

(A) carry out such responsibilities as may be assigned by the Director; and

(B) serve as acting director during periods of absence by the Director, or at such times as the office of the Director is vacant.

(c) NOTIFICATION OF CHANGES TO NON-STANDARD ACQUISITION AND REQUIREMENTS PROCESSES AND RESPONSIBILITIES.—(1) The Secretary of Defense may not make any changes to the missile de-

¹ So in original. Probably should be capitalized as “Missile Defense Agency”.

fense non-standard acquisition and requirements processes and responsibilities unless, with respect to those proposed changes—

(A) the Secretary, without delegation, has taken each of the actions specified in paragraph (2); and

(B) a period of 120 days has elapsed following the date on which the Secretary submits the report under subparagraph (C) of such paragraph.

(2) If the Secretary proposes to make changes to the missile defense non-standard acquisition and requirements processes and responsibilities, the Secretary shall—

(A) consult with the Under Secretary of Defense for Research and Engineering, the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Policy, the Secretaries of the military departments, the Chairman of the Joint Chiefs of Staff, the Commander of the United States Strategic Command, the Commander of the United States Northern Command, and the Director of the Missile Defense Agency, regarding the changes;

(B) certify to the congressional defense committees that the Secretary has coordinated the changes with, and received the views of, the individuals referred to in subparagraph (A);

(C) submit to the congressional defense committees a report that contains—

(i) a description of the changes, the rationale for the changes, and the views of the individuals referred to in subparagraph (A) with respect to the changes;

(ii) a certification that the changes will not impair the missile defense capabilities of the United States nor degrade the unique special acquisition authorities of the Missile Defense Agency; and

(iii) with respect to any such changes to Department of Defense Directive 5134.09, or successor directive issued in accordance with this subsection, a final draft of the proposed modified directive, both in an electronic format and in a hard copy format; and

(D) with respect to any such changes to Department of Defense Directive 5134.09, or successor directive issued in accordance with this subsection, provide to such committees a briefing on the proposed modified directive described in subparagraph (C)(iii).

(3) In this subsection, the term “non-standard acquisition and requirements processes and responsibilities” means the processes and responsibilities described in—

(A) the memorandum of the Secretary of Defense titled “Missile Defense Program Direction” signed on January 2, 2002, as in effect on the date of the enactment of this subsection or as modified in accordance with this subsection, or any successor memorandum issued in accordance with this subsection;

(B) Department of Defense Directive 5134.09, as in effect on the date of the enactment of this subsection (without regard to any modifications described in Directive-type Memorandum 20-002 of the Deputy Secretary of Defense, or any amendments or extensions there-

to made before the date of such enactment), or as modified in accordance with this subsection, or any successor directive issued in accordance with this subsection; and

(C) United States Strategic Command Instruction 538-3 titled “MD Warfighter Involvement Process”, as in effect on the date of the enactment of this subsection or as modified in accordance with this subsection, or any successor instruction issued in accordance with this subsection.

(Added Pub. L. 118-159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2187.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(3), is the date of enactment of Pub. L. 118-159, which was approved Dec. 23, 2024.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 205 of this title prior to repeal by Pub. L. 118-159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

Statutory Notes and Related Subsidiaries

RESCISSION OF MEMORANDUM ON MISSILE DEFENSE GOVERNANCE

Pub. L. 118-31, div. A, title XVI, §1667, Dec. 22, 2023, 137 Stat. 607, provided that: “Not later than May 31, 2024, the Secretary of Defense shall—

“(1) rescind Directive-type Memorandum 20-002 relating to ‘Missile Defense System Policies and Governance’; and

“(2) in accordance with [former] section 205(b) of title 10, United States Code, replace such memorandum with governance documents, policies, and procedures, that balance—

“(A) providing the Missile Defense Agency with greater flexibility and agility, particularly with regards to milestone a [probably should be “Milestone A”] (or equivalent) acquisition decisions to rapidly meet warfighter needs; and

“(B) the need for continued oversight to ensure integration into joint-force air and missile defense capabilities.”

DIRECTED ENERGY PROGRAMS FOR BALLISTIC AND HYPERSONIC MISSILE DEFENSE

Pub. L. 117-81, div. A, title XVI, §1664, Dec. 27, 2021, 135 Stat. 2104, provided that:

“(a) AUTHORITY OF THE MISSILE DEFENSE AGENCY.—The Secretary of Defense shall delegate to the Director of the Missile Defense Agency the authority to budget for, direct, and manage directed energy programs applicable for ballistic and hypersonic missile defense missions, in coordination with other directed energy efforts of the Department of Defense.

“(b) PRIORITIZATION.—In budgeting for and directing directed energy programs applicable for ballistic and hypersonic defensive missions pursuant to subsection (a), the Director of the Missile Defense Agency shall—

“(1) prioritize the early research and development of technologies; and

“(2) address the transition of such technologies to industry to support future operationally relevant capabilities.”

SUBCHAPTER II—BUDGET AND ACQUISITION MATTERS

§ 5511. Ballistic missile defense programs: program elements

(a) PROGRAM ELEMENTS SPECIFIED BY PRESIDENT.—In the budget justification materials sub-