

Public Law 96-164
96th Congress

An Act

To authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes.

Dec. 29, 1979
[S. 673]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980".

Department of
Energy National
Security and
Military
Applications of
Nuclear Energy
Authorization
Act of 1980.

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1980 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy) as follows:

(1) For the defense inertial confinement fusion program, a total of \$125,090,000, allocated as follows:

(A) For glass laser experiments, \$44,200,000.

(B) For gas laser experiments, \$29,300,000.

(C) For electron and particle beam experiments, \$12,200,000.

(D) For supporting research and experiments, \$38,300,000.

(E) For personnel, \$1,090,000.

(2) For the naval reactor development program, a total of \$241,367,000, allocated as follows:

(A) For the naval reactor development program, \$232,600,000.

(B) For personnel, \$8,767,000.

(3) For weapons activities, a total of \$1,455,241,000, allocated as follows:

(A) For research and development, \$421,143,000.

(B) For weapons testing, \$236,000,000.

(C) For production and surveillance, \$761,000,000.

(D) For personnel, \$37,098,000.

(4) For verification and control technology (including personnel), \$36,800,000.

(5) For materials production, to be administered by the Assistant Secretary for Defense Programs, a total of \$357,748,000, allocated as follows:

(A) For production reactor expenses, \$180,300,000.

(B) For the processing of nuclear materials, \$82,400,000.

(C) For supporting services, \$67,714,000, of which \$15,000,000 shall be used for the fiscal year 1980 increment of startup costs for the Purex chemical processing plant at Richland, Washington.

(D) For fluorinel processing of nonproduction fuels and related activities, \$21,390,000.

(E) For advanced isotope separation research, \$5,000,000.

(F) For personnel, \$944,000.

(6) For defense waste management (including \$1,691,000 for personnel), \$215,991,000.

(7) For the nuclear materials security and safeguards technology development program (defense program), including \$3,560,000 for personnel, \$43,227,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1980 for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs, as follows:

(1) For inertial confinement fusion:

Project 80-PE&D-1, plant engineering and design, \$3,500,000.

(2) For naval reactors development:

Project 80-AE-1, fluids and corrosion test facilities upgrading, various locations, \$17,900,000.

Project 80-GPP-1, general plant projects, \$3,300,000.

(3) For weapons activities:

Project 80-AE-4, addition to computer facility, Sandia Laboratories, Livermore, California, \$2,800,000.

Project 80-AE-5, ground launched cruise missile (GLCM) warhead production facilities, various locations, \$4,000,000.

Project 80-AE-6, utilities and equipment restoration, replacement and upgrade, various locations, \$39,400,000.

Project 80-AE-8, advanced size reduction facility, Rocky Flats Plant, Golden, Colorado, \$10,000,000.

Project 80-AE-9, new polymer production facility, Bendix Plant, Kansas City, Missouri, \$1,400,000.

Project 80-AE-10, additional loading facilities, Savannah River Plant, Aiken, South Carolina, \$3,500,000.

Project 80-AE-11, Pershing II warhead production facilities, various locations, \$5,000,000.

Project 80-GPP-1, general plant projects, \$25,400,000.

Project 80-PE&D-1, plant engineering and design, \$3,600,000.

Project 71-9, fire, safety, and adequacy of operating conditions projects, various locations, an additional sum of \$7,000,000, for a total project authorization of \$287,000,000.

Project 77-11-c, 8" Artillery Fired Atomic Projectile (AFAP) production facilities, various locations, an additional sum of \$4,600,000, for a total project authorization of \$27,200,000.

Project 78-16-d, weapons safeguards, various locations, an additional sum of \$2,000,000, for a total project authorization of \$28,000,000.

Project 78-16-g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico, an additional sum of \$6,200,000, for a total project authorization of \$12,500,000.

Project 78-18-d, Steam plant improvements, Y-12 plant, Oak Ridge, Tennessee, an additional sum of \$15,500,000, for a total project authorization of \$25,500,000.

Project 79-7-b, fire protection improvements, Los Alamos Scientific Laboratory, New Mexico, an additional sum of \$2,500,000, for a total project authorization of \$4,500,000.

Project 79-7-c, proton storage ring, Los Alamos Scientific Laboratory, New Mexico, an additional sum of \$14,000,000, for a total project authorization of \$19,000,000.

Project 79-7-l, system research and development laboratory, Sandia Laboratories, Albuquerque, New Mexico, an additional sum of \$12,000,000, for a total project authorization of \$13,000,000.

Project 79-7-n, utility system restoration, Y-12 plant, Oak Ridge, Tennessee, an additional sum of \$15,800,000, for a total project authorization of \$18,000,000.

Project 79-7-o, universal pilot plant, Pantex Plant, Amarillo, Texas, an additional sum of \$3,900,000, for a total project authorization of \$7,400,000.

(4) For materials production:

Project 80-AE-2, replace obsolete processing facilities, HB Line, Savannah River, South Carolina, \$19,000,000.

Project 80-AE-3, steam generation facilities, Idaho Chemical Processing Plant, Idaho, \$23,500,000.

Project 80-GPP-1, general plant projects, \$15,000,000.

Project 80-PE&D-1, plant engineering and design, \$3,400,000.

Project 77-13-a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, an additional sum of \$50,400,000, for a total project authorization of \$115,400,000.

Project 78-18-e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, an additional sum of \$11,500,000, for a total project authorization of \$40,000,000.

Project 79-7-i, transmission and distribution systems upgrading, Richland, Washington, an additional sum of \$7,000,000, for a total project authorization of \$14,000,000.

(5) For defense waste management:

Project 80-GPP-1, general plant projects, \$8,880,000.

Project 80-PE&D-1, plant engineering and design, \$8,000,000, of which \$3,000,000 shall be available only for plant engineering and design at the Savannah River Plant, Aiken, South Carolina.

Project 77-13-f, Waste Isolation Pilot Plant, Delaware Basin, southeast New Mexico (A-E, land lease acquisition and long-lead procurement), an additional sum of \$22,000,000, for a total project authorization of \$90,000,000.

Project 75-1-c, new Waste Calcining Facility, Idaho Falls, Idaho, an additional sum of \$25,000,000, for a total project authorization of \$90,000,000.

(6) For capital equipment not related to construction—

(A) for inertial confinement fusion, \$10,100,000;

(B) for naval reactors development, \$15,800,000;

(C) for weapons activities, \$104,164,000;

(D) for verification and control technology, \$1,060,000;

(E) for materials production, \$35,000,000;

(F) for defense waste management, \$12,000,000; and

(G) for nuclear materials security and safeguards, \$3,400,000.

TITLE II—GENERAL PROVISIONS

REPROGRAMMING

SEC. 201. (a) Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of 105 percent of the amount authorized for that program by this Act or \$10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of Congress of notice from the Secretary of Energy (hereinafter in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) In no event may the total amount of funds obligated pursuant to this Act exceed the total amount authorized to be appropriated by this Act.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 202. (a) The Secretary is authorized to carry out any construction project under the general plant projects provisions authorized by this Act if the total estimated cost of such construction project does not exceed \$1,000,000.

(b) If at any time during the construction of any general plant project authorized by this Act, the estimated cost of such project is revised due to unforeseen cost variations and the revised cost of such project exceeds \$1,000,000, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variation.

(c) In no event may the total amount of funds obligated to carry out all general plant projects authorized by this Act exceed the total amount authorized to be appropriated for such projects by this Act.

LIMITS ON CONSTRUCTION PROJECTS

SEC. 203. (a) Whenever the current estimated cost of any construction project which is authorized by section 102 of this Act, or which is in support of the national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent (1) the amount authorized for such project, or (2) the amount of the total estimated cost for such project as shown in the most recent budget justification data submitted to Congress, such project may not be started or additional obligations incurred in connection with such project, as the case may be, unless a period of 30 days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of Congress of written notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such action, or unless

each such committee before the expiration of such period has notified the Secretary that such committee has no objection to the proposed action.

(b) Subsection (a) shall not apply to any construction project which has a current estimated cost of less than \$5,000,000.

**FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE
DEPARTMENT OF ENERGY**

SEC. 204. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

FUND TRANSFER AUTHORITY

SEC. 205. To the extent specified in appropriation Acts, funds appropriated pursuant to this Act may be transferred to other agencies of the Government for the performance of the work for which such funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which such funds are transferred.

AUTHORITY FOR CONSTRUCTION DESIGN

SEC. 206. (a) (1) Within the amounts authorized by this Act for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed \$2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds \$300,000, the Secretary shall notify the appropriate committees of Congress in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds \$2,000,000, funds for such design must be specifically authorized by law.

(c) This section shall apply only with respect to design for construction projects begun after October 1, 1980.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

SEC. 207. In addition to the advance planning and construction design authorized by section 102, the Secretary may perform such planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that such design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

ADJUSTMENTS FOR PAY INCREASES

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

AVAILABILITY OF FUNDS

SEC. 209. When so specified in an appropriation Act, amounts appropriated for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

RESTRICTION ON LICENSING REQUIREMENT FOR CERTAIN DEFENSE
ACTIVITIES AND FACILITIES

42 USC 7272.

SEC. 210. None of the funds authorized to be appropriated by this or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR
ACT

42 USC 7273.

SEC. 211. None of the funds authorized to be appropriated by this or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if (1) the Secretary finds that compliance is physically impossible within the time prescribed for compliance, or (2) the President has specifically requested appropriations for compliance and the Congress has failed to appropriate funds for such purpose.

MANAGEMENT OF NATIONAL WEAPONS LABORATORIES

SEC. 212. (a) It is the sense of Congress that—

(1) the nuclear weapons laboratories (the Los Alamos Scientific Laboratory, Los Alamos, New Mexico, the Lawrence Livermore Laboratory, Livermore, California, and the Sandia Laboratories, Albuquerque, New Mexico, and Livermore, California) are unique national assets which must retain their primary defense focus and strive to sustain this Nation's world pre-eminence in the area of nuclear systems technology;

(2) the long-standing contractual arrangements between the Federal Government and the University of California for the administration of the Los Alamos Scientific Laboratory and the Lawrence Livermore Laboratory have served the Nation well and should continue as long as the national interest is being served; and

(3) the recent efforts by some individuals within the University of California system to influence the roles and missions of the Lawrence Livermore Laboratory and the Los Alamos Laboratory have been disruptive and may prove to be counterproductive to the national interest.

(b) As soon as practicable, but not later than February 1, 1980, the Secretary shall submit to the Congress a plan for the termination of the performance of work of the Department of Energy at the Ernest Orlando Lawrence Livermore Laboratory and at the Los Alamos Scientific Laboratory under contracts numbered W-7405-ENG-36 and W-7405-ENG-48 between the United States and the Regents of the University of California (a corporation of the State of California). Such plan shall include provisions to assure that such a termination of work would be conducted in accordance with the terms of such contracts.

(c) The Secretary shall study the types of contracts that would best provide for the continued performance of the work performed under the contracts referred to in subsection (b). The Secretary shall include in any contract proposed to replace such contracts terms to assure that—

(1) the paramount objectives and missions of such laboratories continue to be in the field of national security;

(2) the transition from management of such laboratories by the University of California to management by any new contractor would be orderly, involve a minimum of uncertainty, and provide employee rights and benefits (including rights and benefits with respect to pensions and retirement) reasonably comparable to those currently provided employees of the laboratories by the Regents of the University of California; and

(3) any new contractor may retain as many of the current management officials and employees of the laboratories as may be consistent with maintaining and fostering excellence in carrying out the functions assigned to the laboratories.

(d)(1) The Los Alamos Scientific Laboratory at Los Alamos, New Mexico, shall after the date of the enactment of this Act be known and designated as the "Los Alamos National Scientific Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Los Alamos Scientific Laboratory shall after such date be considered to be a reference to the Los Alamos National Scientific Laboratory.

(2) The Ernest Orlando Lawrence Livermore Laboratory at Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Ernest Orlando Lawrence Livermore National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Ernest Orlando Lawrence Livermore Laboratory shall after such date be considered to be a reference to the Ernest Orlando Lawrence Livermore National Laboratory.

(3) The Sandia Laboratories at Albuquerque, New Mexico, and Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Sandia National Laboratories". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Sandia Laboratories shall after such date be considered to be a reference to the Sandia National Laboratories.

WASTE ISOLATION PILOT PLANT, DELAWARE BASIN, NEW MEXICO

SEC. 213. (a) The Secretary of Energy shall proceed with the Waste Isolation Pilot Plant construction project authorized to be carried out in the Delaware Basin of southeast New Mexico (project 77-13-f) in accordance with the authorization for such project as modified by this section. Notwithstanding any other provision of law, the Waste Isolation Pilot Plant is authorized as a defense activity of the Department of Energy, administered by the Assistant Secretary of Energy for Defense Programs, for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States exempted from regulation by the Nuclear Regulatory Commission.

(b)(1) In carrying out such project, the Secretary shall consult and cooperate with the appropriate officials of the State of New Mexico, with respect to the public health and safety concerns of such State in

Consultation
and cooperation.

regard to such project and shall, consistent with the purposes of subsection (a), give consideration to such concerns and cooperate with such officials in resolving such concerns. The consultation and cooperation required by this paragraph shall be carried out as provided in paragraph (2).

Written
agreement.

(2) The Secretary shall seek to enter into a written agreement with the appropriate officials of the State of New Mexico, as provided by the laws of the State of New Mexico, not later than September 30, 1980, setting forth the procedures under which the consultation and cooperation required by paragraph (1) shall be carried out. Such procedures shall include as a minimum—

(A) the right of the State of New Mexico to comment on, and make recommendations with regard to, the public health and safety aspects of such project before the occurrence of certain key events identified in the agreement;

(B) procedures, including specific time frames, for the Secretary to receive, consider, resolve, and act upon comments and recommendations made by the State of New Mexico; and

(C) procedures for the Secretary and the appropriate officials of the State of New Mexico to periodically review, amend, or modify the agreement.

Submittal to
congressional
committees.

(3) As soon as practicable after the date on which the agreement referred to in paragraph (2) is entered into by the Secretary and the appropriate officials of the State of New Mexico, but not more than 15 days after such date, the Secretary shall transmit to the Committees on Armed Services of the Senate and the House of Representatives copies of such agreement, and a period of 45 days shall elapse while Congress is in session before such agreement becomes effective unless the Committees on Armed Services of the Senate and the House of Representatives, in writing, waive any portion of such 45-day period. The Secretary shall promptly notify such committees of any amendment or modification made to such agreement under paragraph (2)(C).

(c) No law enacted after the date of the enactment of this Act shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.

Approved December 29, 1979.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-162 accompanying H.R. 2603 (Comm. on Armed Services) and No. 96-702 (Comm. of Conference.)

SENATE REPORT No. 96-193 (Comm. on Armed Services and Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 125 (1979):

June 18, considered and passed Senate.

Nov. 9, H.R. 2603 considered and passed House; passage vacated and S. 673, amended, passed in lieu.

Dec. 18, Senate agreed to conference report.

Dec. 19, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 15, No. 52:

Dec. 31, Presidential statement.