

Public Law 95-79
95th Congress

An Act

To authorize appropriations during the fiscal year 1978, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, to authorize the military training student loads, and to authorize appropriations for civil defense, and for other purposes.

July 30, 1977
[H.R. 5970]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of
Defense
Appropriation
Authorization
Act, 1978.

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated during the fiscal year 1978 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, \$682,500,000; for the Navy and the Marine Corps, \$3,499,800,000; for the Air Force, \$7,918,500,000, of which \$3,000,000 may be obligated and expended only for converting an existing A-7D aircraft to a two-seat trainer version of such aircraft.

MISSILES

For missiles: for the Army, \$562,700,000; for the Navy, \$1,865,500,000; for the Marine Corps, \$110,600,000; for the Air Force, \$1,826,700,000.

NAVAL VESSELS

For naval vessels: for the Navy, \$6,191,200,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, \$1,441,300,000; for the Marine Corps, \$74,800,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, \$326,700,000.

OTHER WEAPONS

For other purposes: for the Army, \$96,000,000; for the Navy, \$114,600,000; for the Marine Corps, \$2,400,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND
EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated during the fiscal year 1978 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, \$2,441,782,000;

For the Navy (including the Marine Corps), \$3,844,518,000; of which \$20,141,000 shall be available only for research and development of an extremely low frequency (ELF) system, and none of which shall be available for full-scale development or construction of a new test bed for such system; and of which no more than \$40,000,000 shall be used for research and development relating to the CVV, VSS, and DD-963(H) ship development programs; but none of the funds authorized by this title may be obligated or expended for the CVV, VSS or DD-963(H) program except for the purpose of conducting comprehensive evaluation studies of the costs and combat effectiveness of sea based aircraft platforms for both the short and long term needs of the Navy. Such studies shall include, but not be limited to, nuclear aircraft carriers, new design medium aircraft carriers (CVV), the refitting of existing aircraft carriers (Midway and other classes), and various types of VSTOL aviation ships (including VSS). The Secretary of the Navy shall take such actions as are required to insure that such studies are sufficiently advanced with respect to a Nimitz class aircraft carrier, a CVV, a VSTOL aviation ship, and a DD-963(H) so that any of such ships may be authorized in fiscal year 1979. This section shall not be construed as constituting an authorization for a CVN, a CVV, or a VSS ship.

For the Air Force, \$3,824,170,000, of which \$15,700,000 may be obligated and expended only for the North Atlantic Treaty Organization Airborne Warning and Control System (AWACS) program, but such \$15,700,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft.

For the defense agencies, \$777,210,000, of which \$25,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense;

For the Director of Defense Research and Engineering, \$401,051,000.

SEC. 202. (a) The funds authorized to be appropriated under section 201 for the Director of Defense Research and Engineering during fiscal year 1978 shall be obligated only for the following purposes:

(1) An amount not to exceed \$349,000,000 for the development of a cruise missile capable of being launched from a ship or from a submarine, with emphasis to be placed on early deployment of an antiship cruise missile, for the continued development of the Air Force AGM-86 air-launched cruise missile, and for the development of a ground-launched cruise missile.

(2) An amount not to exceed \$52,051,000 for 5-inch and 155-millimeter guided projectiles, but no funds for such purpose shall be obligated until the Secretary of Defense submits a plan to the Committees on Armed Services of the Senate and House of Representatives providing (A) for the immediate conduct of engineering development of the 155-millimeter guided projectile and of the current Navy 5-inch guided projectile which shall provide for maximum implementation of common components for such projectiles and an initial operational capability for both such projectiles before January 1, 1980, and (B) for the immediate conduct of an effort by the Army and the Navy, to be performed by personnel of the Department of Defense, to validate the technical data packages for such projectiles to insure that such pack-

Plan, submittal to congressional committees.

ages are adequate for manufacture of such projectiles by a source other than the developer.

(b) Competitive cruise missile development programs shall continue until the Secretary of Defense certifies to the Committees on Armed Services of the Senate and House of Representatives that (1) a single airframe for the cruise missile can be selected which meets all operational requirements, and (2) cost data clearly establish that termination of the competitive cruise missile development programs will result in lower development and procurement costs for the cruise missile.

SEC. 203. Of the funds authorized to be appropriated under section 201 for the Navy (including the Marine Corps) for research, development, test, and evaluation, an amount not to exceed \$3,894,000 shall be available only for (1) defining a set of design specifications for the Shipboard Intermediate Range Combat System (SIRCS) program, and (2) conducting an open competition, to be conducted after such design specifications have been defined and to be based on such specifications, to select a contractor or contractors for the advanced development phase of such program. In developing such design specifications, the Secretary of the Navy shall include the best features of the designs developed by the three contractors which have been selected for the program before the date of enactment of this Act and such other features as the Secretary considers appropriate. A contract entered into under the competition required by this section may be for development of the entire system or for development of any independent subsystem of the system.

Design specifications.

SEC. 204. No funds authorized to be appropriated under section 201 shall be obligated for the fabrication of hardware required to accommodate a specific 120-millimeter gun in the XM-1 tank turret or for the installation of a 120-millimeter gun in an XM-1 tank full-scale engineering-development vehicle unless and until—

(1) comparative testing of the 105-millimeter gun system with the candidate 120-millimeter gun systems of the United Kingdom and the Federal Republic of Germany is completed, if the gun systems of such countries are available for testing as currently scheduled;

(2) the test results of such comparative testing are evaluated by the Secretary of the Army;

(3) the Secretary of the Army makes a recommendation to the Congress, which shall be submitted no later than February 1, 1978, consistent with such test results and evaluations for development and procurement of a specific 120-millimeter XM-1 tank main gun; and

(4) thirty days, excluding periods of recess of more than three days by either House of Congress, elapse from the date on which the Secretary of the Army submits a recommendation under paragraph (3).

Recommendation, submittal to Congress.

SEC. 205. The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives, no later than February 1, 1978, a plan for the funding and scheduling necessary to incorporate by October 1, 1980, collective system protection against chemical and radiological agents for all main battle tanks, mechanized infantry combat vehicles, armored personnel carriers, armored self-propelled artillery vehicles, armored self-propelled air defense artillery vehicles, and other such types of equipment associated with the above in combat operations which will be in development or procurement in fiscal year 1981.

Plan, submittal to Congress.

SEC. 206. (a) The Secretary of the Army shall not obligate any funds authorized to be appropriated under this or any other Act for the improvement of the M-139 gun as an interim weapon system for use on the Mechanized Infantry Combat Vehicle (MICV).

(b) The Secretary of the Army shall structure the development program for the Mechanized Infantry Combat Vehicle (MICV) to provide for initiation of production of such vehicle not later than May 31, 1981.

TITLE III—ACTIVE FORCES

SEC. 301. For the fiscal year beginning October 1, 1977, and ending September 30, 1978, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

- (1) The Army, 787,000;
- (2) The Navy, 535,800;
- (3) The Marine Corps, 191,500;
- (4) The Air Force, 570,800.

SEC. 302. (a) (1) Section 201 of title 37, United States Code, relating to general rules for assignment to pay grades, is amended—

(A) by striking out subsection (c); and

(B) by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

37 USC 203.

(2) Section 203 of such title, relating to rates of basic pay for members of the uniformed services, is amended by adding at the end thereof the following new subsection:

“(c)(1) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to monthly cadet pay, or midshipman pay, at the rate of \$313.20.

“(2) The rate of monthly cadet pay, or midshipman pay, under this subsection shall be adjusted in the manner and at the time the monthly basic pay of members of the uniformed services is adjusted under section 1009 of this title.”

37 USC 1009.

37 USC 209.

(3) (A) Section 209(c) of such title is amended to read as follows:

“(c) Each cadet or midshipman in the Senior Reserve Officers' Training Corps, while he is attending field training or practice cruises under section 2109 of title 10, and each applicant for membership in the Senior Reserve Officers' Training Corps, while he is attending field training or practice cruises to satisfy the requirements of section 2104(b)(6)(B) of title 10 for admission to advanced training, is entitled, while so attending, to pay at the rate prescribed for cadets and midshipmen at the United States Military, Naval, and Air Force Academies under section 203(c) of this title.”

Supra.

(B) The heading of such section 209 is amended to read as follows:

“§ 209. Members of precommissioning programs”.

(C) The item relating to section 209 in the analysis of chapter 3 of such title is amended to read as follows:

“209. Members of precommissioning programs.”

(4) Section 555 of title 10, United States Code, is amended by striking out “section 201(d)” and inserting in lieu thereof “section 201(c)”.

37 USC 203 note.

(b) Any cadet or midshipman who, on the date of enactment of this Act, or on any date thereafter, is—

- (1) admitted to the United States Military Academy, the United States Naval Academy, the United States Air Force

Academy, or the Coast Guard Academy, as the case may be, or

(2) enrolled in the Senior Reserve Officers' Training Corps program and attending a field training encampment or practice cruise for which he is entitled to pay under section 209(c) of title 37, United States Code,

shall, if otherwise entitled, receive the rate of pay prescribed by section 201(c) of title 37, United States Code, as in effect on the day before the date of enactment of this Act, until the rate of pay authorized by section 203(c) of such title, as added by the amendments made by subsection (a) of this section, is equal to or greater than the rate prescribed by section 201(c) of such title, as in effect on the day before the date of enactment of this Act. Thereafter, the rate of pay of such person shall be as prescribed by section 203(c) of such title, as added by the amendments made by subsection (a) of this section, or section 209(c) of such title, as amended by subsection (a) of this section, as appropriate.

Ante., p. 326.

Ante., p. 326.

(c) A person who, on the date of enactment of this Act, is an applicant for membership in the Senior Reserve Officers' Training Corps and who, in order to satisfy the requirement of section 2104(b)(6)(B) of title 10, United States Code, is attending or will attend one of the field training encampments or practice cruises in a field training or practice cruise period which is in progress on the date of enactment of this Act, is entitled to continue to receive pay at the rate prescribed by such section as in effect on the day before the date of enactment of this Act while such person is attending such field training or practice cruise period in progress on the date of enactment of this Act. Thereafter, the entitlement of such person shall be as prescribed in subsection (b) of this section.

SEC. 303. For the purpose of promoting equality and expanding job opportunities for the female members of the Armed Forces, the Secretary of Defense shall within six months from the enactment of this section, submit to the Congress a definition of the term "combat", together with recommendations on expanding job classifications to which female members of the armed services may be assigned, and recommendations on any changes in law necessary to implement these recommendations.

Definition and recommendations, submittal to Congress.

TITLE IV—RESERVE FORCES

SEC. 401. (a) For the fiscal year beginning October 1, 1977, and ending September 30, 1978, the Selected Reserve of each Reserve component of the Armed Forces shall be programed to attain an average strength of not less than the following:

- (1) The Army National Guard of the United States, 382,000;
- (2) The Army Reserve, 211,300;
- (3) The Naval Reserve, 87,000;
- (4) The Marine Corps Reserve, 32,400;
- (5) The Air National Guard of the United States, 92,500;
- (6) The Air Force Reserve, 52,000;
- (7) The Coast Guard Reserve, 11,700.

(b) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year; and (2) the total number of individual members not

Reduction.

in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 402. (a) Part III of subtitle A of title 10, United States Code, relating to training, is amended by adding after chapter 105 the following new chapter:

"Chapter 106.—EDUCATIONAL ASSISTANCE FOR ENLISTED MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE

"Sec.

"2131. Educational assistance program : establishment ; amount.

"2132. Eligibility for educational assistance.

"2133. Termination of assistance ; refund by member.

"2134. Reports to Congress.

"2135. Termination of program.

10 USC 2131.

"§ 2131. Educational assistance program : establishment ; amount

"(a) To encourage enlistments in units of the Selected Reserve of the Ready Reserve, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Transportation, under regulations prescribed by him with respect to the Coast Guard when it is not operating as a service in the Navy, may establish and maintain a program to provide educational assistance to enlisted members of the Selected Reserve of the Ready Reserve of the armed force under his jurisdiction.

"(b) (1) An educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned of 50 percent of the educational expenses incurred by a member for instruction at an accredited institution. Expenses for which payment may be made under this section include tuition, fees, books, laboratory fees, and shop fees for consumable materials used as part of classroom or shop instruction. Payments under this section shall be limited to those educational expenses normally incurred by students at the institution involved.

"(2) To receive assistance under this section, a member must be eligible for such assistance under section 2132 and must submit an application for such assistance in such form and manner as the Secretary concerned shall prescribe and be approved for such assistance by the Secretary concerned.

"(c) Educational assistance may be provided to a member under this section until the member completes a course of instruction required for the award of a baccalaureate degree, or the equivalent evidence of completion of study, by an accredited institution, but the amount of educational assistance provided a member under this section may not exceed \$500 in any twelve-month period, nor a total of \$2,000.

"(d) For purposes of this section, the term 'accredited institution' means a civilian college, university, or trade, technical, or vocational school in the United States (including the District of Columbia, Puerto Rico, Guam, and the Virgin Islands) that provides education at the

"Accredited institution."

postsecondary level and that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Commissioner of Education, Department of Health, Education, and Welfare.

“§ 2132. Eligibility for educational assistance

10 USC 2132.

“(a) To be eligible for educational assistance under section 2131, a member must not be serving on active duty for more than thirty days and must—

“(1) be an enlisted member of the Selected Reserve of the Ready Reserve of an armed force;

“(2) have initially enlisted as a Reserve for service in a unit of the Selected Reserve of a reserve component after September 30, 1977;

“(3) never have served in an armed force before such enlistment;

“(4) at the time of such enlistment have executed an agreement as prescribed by subsection (b);

“(5) be a graduate from secondary school;

“(6) have completed the initial period of active duty for training required of such member;

“(7) if the member is assigned to a unit, be participating satisfactorily in training with such unit; and

“(8) have served less than eight years as a Reserve.

“(b) (1) An agreement referred to in subsection (a) (4) shall be in writing and shall provide that if the member accepts educational assistance under section 2131, the period of enlistment of such member shall be automatically extended by two years and if the member is discharged for the purpose of accepting an appointment as an officer, the member shall remain a member of the Ready Reserve until the eighth anniversary of such enlistment.

“(2) A member who enlists after September 30, 1977, but before regulations to carry out this chapter are promulgated shall be eligible for educational assistance under section 2131 if he is otherwise eligible for such assistance under subsection (a) and if he executes an agreement as described in paragraph (1) not later than one year after the date on which regulations to carry out this chapter are first promulgated.

“(c) Educational assistance being provided a member under section 2131 may be continued to a member who otherwise continues to qualify for such assistance if such member—

“(1) is discharged in order to accept an immediate appointment as an officer in the Ready Reserve; or

“(2) is no longer a member of the Selected Reserve, if such member is a member of the Ready Reserve and has served at least six years in the Selected Reserve of the Ready Reserve.

“§ 2133. Termination of assistance; refund by member

10 USC 2133.

“(a) Educational assistance being provided a member under section 2131 shall be terminated if—

“(1) the member fails to participate satisfactorily in training with his unit, if he is a member of a unit;

“(2) the member is separated from his armed force, unless he is separated in order to accept an immediate appointment as an officer in the Ready Reserve;

“(3) the member completes eight years of service; or

“(4) the member receives financial assistance under section 2107 as a member of the Senior Reserve Officers' Training Corps.

“(b) A member who fails to participate satisfactorily in training with his unit, if he is a member of a unit, shall refund the amount of all educational assistance received by such member under section 2131 unless the failure to participate in training was due to reasons beyond the control of the member. Any refund made by a member under this subsection shall not affect the period of obligation of such member to serve as a Reserve.

10 USC 2134. **“§ 2134. Reports to Congress**

“The Secretary of Defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve receiving educational assistance under this chapter at the time of such report and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report. The first such report shall be submitted not later than December 31, 1977.

10 USC 2135. **“§ 2135. Termination of program**

“No educational assistance may be provided under this chapter to any person enlisting as a Reserve after September 30, 1978.”

(b) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part III of such subtitle are amended by inserting after the item relating to chapter 105 the following new item:

“106. Educational Assistance for Enlisted Members of the Selected Reserve of the Ready Reserve..... 2131”.

SEC. 403. (a) (1) Chapter 5 of title 37, United States Code, is amended by inserting after section 308a of such chapter the following new section:

37 USC 308b. **“§ 308b. Special pay: reenlistment bonus for members of the Selected Reserve**

“(a) An enlisted member of a reserve component who—

“(1) initially enlisted in a reserve component (other than an enlistment in a reserve component under the delayed enlistment program for the active forces);

“(2) has completed less than ten years of service as a member of a reserve component; and

“(3) reenlists or voluntarily extends his enlistment for a period of three years or for a period of six years in a designated military skill, or in a designated unit, in the Selected Reserve of the Ready Reserve of an armed force;

may be paid a bonus as provided in subsection (b).

“(b) The bonus to be paid under subsection (a) shall be—

“(1) an initial payment of—

“(A) \$450, in the case of a member who reenlists or voluntarily extends his enlistment for a period of three years; or

“(B) \$900, in the case of a member who reenlists or voluntarily extends his enlistment for a period of six years; and

“(2) a subsequent payment of \$150 upon the completion of each year of the period of such reenlistment or extension of enlistment during which such member has satisfactorily participated in training with his unit.

“(c) No member shall be paid more than one bonus under this section.

“(d) A member who fails to participate satisfactorily in training with his unit during a term of enlistment for which a bonus is being paid to him under this section shall refund an amount equal to the amount by which the amount of such bonus exceeds the product of—

“(1) the number of months during that term of enlistment during which such member participated satisfactorily in training with his unit; and

“(2) \$25.

“(e) The Secretary of Defense shall submit a report to the Congress every three months listing the units of the Selected Reserve of the Ready Reserve which have been designated by him for purposes of subsection (a) (3) and stating the number of members of the Selected Reserve of the Ready Reserve who at the time of such report are serving a term of enlistment for which a bonus is being paid under this section. The first such report shall be submitted not later than December 31, 1977.

Report to
Congress.

“(f) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

Regulations.

“(g) No bonus may be paid under this section to any enlisted member who, after September 30, 1978, reenlists or voluntarily extends his enlistment in a reserve component.”

(2) The analysis of chapter 5 of title 37, United States Code, is amended by inserting after the item relating to section 308a the following new item:

“308b. Special pay: reenlistment bonus for members of the Selected Reserve.”

(b) The amendments made by subsection (a) shall apply with respect to any reenlistment, or voluntary extension of an enlistment, in the Selected Reserve of any reserve component of the Armed Forces after September 30, 1977.

Effective date.
37 USC 308b
note.

TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) For the fiscal year beginning October 1, 1977, and ending September 30, 1978, the Department of Defense is authorized an end strength for civilian personnel of 1,018,600.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy, including the Marine Corps, the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within 60 days after the date of enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale of each allocation.

Report to
Congress.

(c) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the

Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

Personnel
increase,
limitation.

Notification to
Congress.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized by subsection (a) of this section but such additional number may not exceed $1\frac{1}{4}$ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of an authorization to increase civilian personnel strength under the authority of this subsection.

TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. (a) For the fiscal year beginning October 1, 1977, and ending September 30, 1978, each component of the Armed Forces is authorized an average military training student load as follows:

- (1) The Army, 77,711;
- (2) The Navy, 60,767;
- (3) The Marine Corps, 24,020;
- (4) The Air Force, 50,356;
- (5) The Army National Guard of the United States, 16,606;
- (6) The Army Reserve, 11,136;
- (7) The Naval Reserve, 1,065;
- (8) The Marine Corps Reserve, 3,449;
- (9) The Air National Guard of the United States, 2,598;
- (10) The Air Force Reserve, 1,186.

(b) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) of this section for the fiscal year ending September 30, 1978, shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

SEC. 602. Section 2102 of title 10, United States Code, is amended by adding at the end thereof a new subsection as follows:

“(d) The President shall cause to be established and maintained in each State at least one unit of the program if—

- “(1) a unit is requested by an educational institution in the State;

- “(2) such request is approved by the Governor of the State in which the institution requesting the unit is located; and
- “(3) the Secretary of the military department concerned determines that there will be not less than 40 students enrolled in such unit and that the provisions of this section are otherwise satisfied.”.

TITLE VII—CIVIL DEFENSE

SEC. 701. Funds are hereby authorized to be appropriated during fiscal year 1978 to carry out the provisions of the Federal Civil Defense Act of 1950, for programs of the Defense Civil Preparedness Agency, in the amount of \$95,250,000.

50 USC app.
2251 note.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. The President shall include in the budget for fiscal year 1979 a request for funds sufficient to meet the total operation and maintenance costs of the Department of Defense for such year, including reasonably foreseeable increases in both the private and public sectors in the cost of labor, material, and other goods and services.

SEC. 802. None of the funds authorized to be appropriated by this Act may be used to pay any claim over \$5,000,000 against the United States, unless such claim has been thoroughly examined and evaluated by officials of the Department of Defense responsible for determining such claims and a report is made to the Congress as to the validity of these claims.

Claims, payment.
Report to
Congress.

SEC. 803. (a) Section 651(a) of title 10, United States Code, is amended by striking out “male” and “after August 9, 1955,” in the first sentence thereof.

(b) The amendments made by subsection (a) shall take effect on the first day of the seventh calendar month beginning after the month in which this Act is enacted and shall apply to any female person who becomes a member of an Armed Force on or after such day.

Effective date.
10 USC 651 note.

SEC. 804. (a) Section 105(a) of title 32, United States Code, is amended—

(1) by striking out “The Secretary of the Army shall have an inspection made at least once a year” and inserting in lieu thereof “Under regulations prescribed by him, the Secretary of the Army may have an inspection made”; and

(2) by striking out “and” at the end of clause (4), striking out the period at the end of clause (5) and inserting in lieu thereof “; and”, and inserting after clause (5) the following new clause: “(6) the accounts and records of each property and fiscal officer are properly maintained.”.

Regulations.

(b) Section 708 of title 32, United States Code, is amended—

(1) by striking out subsection (d);

(2) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively; and

(3) by striking out “(e)” in subsection (e) (as so redesignated) and inserting in lieu thereof “(d)”.

SEC. 805. Section 6485 (b) of title 10, United States Code, is amended by striking out “and shall be physically examined” and all that follows in such section and inserting in lieu thereof a period.

37 USC 209 note.

SEC. 806. The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officer candidate programs", approved November 24, 1971 (85 Stat. 491; 37 U.S.C. 209 note), is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1978".

Israel, aircraft sales.

SEC. 807. (a) Notwithstanding any other provision of law, the authority provided in section 501 of Public Law 91-441 (84 Stat. 909) is hereby extended until October 1, 1979; but no transfer of aircraft or other equipment may be made under the authority of such section 501 unless funds have been previously appropriated for such transfer.

(b) Section 501 of Public Law 91-441 (84 Stat. 909) is amended by adding at the end thereof a new sentence as follows: "In any case in which aircraft or other equipment is transferred under authority of this section and such aircraft or equipment is taken from the inventory of the Armed Forces of the United States or is scheduled to be included in such inventory, the Secretary of Defense shall, as soon as practicable and as authorized by law, restock the inventory of the Armed Forces of the United States with equivalent quantities of aircraft and other equipment so transferred."

DOD experiments and studies, report and accounting to congressional committees, 50 USC 1520.

SEC. 808. (a) (1) The Secretary of Defense shall supply the Committees on Armed Services of the Senate and House of Representatives, not later than October 1 of each year, a full accounting of all experiments and studies conducted by the Department of Defense in the preceding twelve-month period, whether directly or under contract, which involve the use of human subjects for the testing of chemical or biological agents.

(2) Not later than thirty days after final approval within the Department of Defense of plans for any experiment or study to be conducted by the Department of Defense, whether directly or under contract, involving the use of human subjects for the testing of chemical or biological agents, the Secretary of Defense shall supply the Committees on Armed Services of the Senate and House of Representatives with a full accounting of such plans for such experiment or study, and such experiment or study may then be conducted only after the expiration of the thirty-day period beginning on the date such accounting is received by such committees.

(b) (1) The Secretary of Defense may not conduct any test or experiment involving the use of any chemical or biological agent on civilian populations unless local civilian officials in the area in which the test or experiment is to be conducted are notified in advance of such test or experiment, and such test or experiment may then be conducted only after the expiration of the thirty-day period beginning on the date of such notification.

(2) Paragraph (1) shall apply to tests and experiments conducted by Department of Defense personnel and tests and experiments conducted on behalf of the Department of Defense by contractors.

DOD commercial or industrial functions, performance review, 10 USC 2304 note.

SEC. 809. (a) The Secretary of Defense and the Director of the Office of Management and Budget shall jointly conduct a complete and comprehensive review of the criteria used in determining whether commercial or industrial type functions at Department of Defense installations located in any State, the District of Columbia, the Commonwealth of Puerto Rico, and Guam should be performed by Department of Defense personnel or by private contractors. The review shall include—

(1) an evaluation of the basis for, and assumptions underlying, Department of Defense methods for conducting cost analyses with respect to decisions to contract for performance of commercial or industrial type functions;

(2) an evaluation of the differences between private contractors and the Department of Defense in their procedures and policies relating to personnel compensation and other differences affecting their analysis of the cost of personnel;

(3) identification of the defense mission essential functions identified by the Secretary of Defense as not suitable for performance by private contractors; and

(4) an evaluation, to be made by the Director of the Office of Management and Budget, of all aspects of OMB Circular A-76 and of the implementation of such circular.

(b) A detailed report describing the results of the review required by subsection (a) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives before January 1, 1978. No commercial or industrial type function of the Department of Defense which on the date of enactment of this Act is being performed by Department of Defense personnel shall be converted to performance by private contractors before the earlier of March 15, 1978, or the end of the 90-day period beginning on the date the report required by this section is received by such committees. The prohibition in the preceding sentence shall not apply to the conversion to performance by private contractors of any commercial or industrial type function at any Department of Defense installation referred to in subsection (a) if such conversion would have been made under policies and regulations in effect before June 30, 1976.

(c) (1) The Secretary of Defense shall, before January 1, 1978, submit a report to the Committees on Armed Services of the Senate and House of Representatives (A) detailing the rationale of the Department of Defense for the establishment of goals for the percentage of work at defense research installations to be performed by private contractors, and (B) detailing the rationale for any direction in effect on the date of enactment of this Act (i) establishing a minimum or maximum percentage for the allocation of work at any defense research installation to be performed by private contractors, or (ii) directing a change in any such allocation in effect on the date of enactment of this Act.

(2) Until March 15, 1978, or the end of the 90-day period beginning on the date the report required by this subsection is received by such committees, whichever is earlier, the percentage of all research and exploratory development work to be performed at or by any Department of Defense research installation which is to be performed by private contractors may not exceed the percentage of such work that was performed by private contractors during the period beginning on July 1, 1975, and ending on September 30, 1976.

Sec. 810. No funds authorized or appropriated under this or any other Act shall be expended to purchase advertising of any sort for the purpose of advertising the existence of the special discharge review program for certain individuals who served in the Armed Forces of the United States between August 4, 1964, and March 28, 1973, which was established by order of the Secretary of Defense on April 5, 1977.

Sec. 811. (a) (1) The total number of commissioned officers on active duty in the Army, Marine Corps, and Air Force above the grade of

Report to congressional committees.

Private performance conversion, temporary prohibition.

Report to congressional committees.

Special discharge review program, advertising prohibition. 50 USC app. 462 note. Commissioned officers on active duty and civilians, ceilings. 10 USC 131 note.

colonel, and on active duty in the Navy above the grade of captain, may not exceed 1,073 after October 1, 1980, and the total number of civilian employees of the Department of Defense in grades GS-13 through GS-18, including positions authorized under section 1581 of title 10, United States Code, shall be reduced during the fiscal year beginning October 1, 1977, by the same percentage as the number of officers on active duty in the Army, Marine Corps, and Air Force above the grade of colonel and on active duty in the Navy above the grade of captain is reduced below 1,141 during such fiscal year, and during the fiscal years beginning October 1, 1978, and October 1, 1979, by a percentage equal to the percentage by which the number of commissioned officers on active duty in the Army, Marine Corps, and Air Force above the grade of colonel and on active duty in the Navy above the grade of captain is reduced during such fiscal year below the total number of such officers on active duty on October 1, 1978, and October 1, 1979, respectively.

(2) On and after October 1, 1980, the total number of civilian employees of the Department of Defense in the grades and positions described in paragraph (1) may not exceed the number employed in such grades and positions on the date of enactment of this subsection reduced as provided in paragraph (1).

Suspension
during national
emergency.

(3) In time of war, or of national emergency declared by Congress, the President may suspend the operation of paragraphs (1) and (2).

(b) (1) Subsection (b) of section 5231 of title 10, United States Code, is amended to read as follows:

“(b) The number of officers serving in the grades of admiral and vice admiral under subsection (a) of this section and section 5081 of this title may not be more than 15 percent of the number of officers on the active list of the Navy above the grade of captain. Of the number of officers that may serve in the grades of admiral and vice admiral, as determined under this subsection, not more than 25 percent may serve in the grade of admiral.”

(2) Such section 5231 is further amended—

(A) by striking out subsection (c);

(B) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively; and

(C) by striking out “numbers authorized under subsections (b) and (c)” in subsections (c) and (d) (as redesignated by subparagraph (B)) and inserting in lieu thereof “number authorized for that grade under subsection (b)”.

(3) Subsection (b) of section 5232 of title 10, United States Code, is amended to read as follows:

“(b) The number of officers serving in the grades of general and lieutenant general may not be more than 15 percent of the number of officers on the active list of the Marine Corps above the grade of colonel.”

(4) The second sentence of subsection (c) of such section is amended by striking out the period and inserting in lieu thereof a comma and the following: “and while in that grade he is in addition to the number authorized for that grade under subsection (b) of this section.”

Materiel
readiness
requirements,
report to
congressional
committees.
10 USC 2203
note.

SEC. 812. The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 15, 1978, a report setting forth quantifiable and measurable materiel readiness requirements for the Armed Forces, including the Reserve components thereof, the monthly readiness

status of the Armed Forces, including the reserve components thereof, during fiscal year 1977, and any changes in such requirements and status projected for fiscal years 1978 and 1979 and in the five-year defense program. The Secretary of Defense shall also inform such committees of any subsequent changes in the aforementioned materiel readiness requirements and the reasons for such changes. The budget for the Department of Defense submitted to the Congress for fiscal year 1979 and subsequent fiscal years shall include data projecting the effect of the appropriations requested for materiel readiness requirements.

SEC. 813. In authorizing procurement under section 101 of this Act and research and development under section 201 of this Act, Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget and Impoundment Control Act of 1974 and the Budget and Accounting Act, 1921, such modifications in United States strategic arms programs as the President may recommend to facilitate either negotiation or agreement in the Strategic Arms Limitation Talks.

SEC. 814. Section 813 of the Department of Defense Appropriation Authorization Act, 1976, is amended to read as follows:

“SEC. 813. In the case of any letter of offer to sell or any proposal to transfer defense articles which are valued at \$25,000,000 or more from the United States active forces' inventories or from current production, the Secretary of Defense shall submit a report to the Congress setting forth—

“(1) the impact of such sales or transfers on the current readiness of United States forces;

“(2) the adequacy of reimbursements to cover, at the time of replenishment of United States inventories, the full replacement costs of those items sold or transferred; and

“(3) for each article to be sold (A) the initial issue quantity requirement for United States forces for that article, (B) the percentage of such requirement already delivered to such forces or contracted for at the time of the report, (C) the timetable for meeting such requirement absent the proposed sale, and (D) the timetable for meeting such requirement if the sale is approved.”.

SEC. 815. (a) Chapter 141 of title 10, United States Code, relating to miscellaneous procurement provisions, is amended by adding after section 2389 the following new section:

“§ 2390. Suggestions for improving procurement policies

“(a) The Secretary of Defense shall request each commissioned officer, and each civilian employee above grade GS-12, who is scheduled for retirement and who is, or was at any time within one year prior to such scheduled retirement, assigned to, or employed in, military procurement to submit suggestions for methods to improve procurement policies, including suggestions for improving competitive bidding procedures and for reducing or eliminating any inequities that may exist. Such request shall be made of each such commissioned officer or employee not less than 30 days preceding his release from active duty or his separation. Submission of suggestions shall be at the option of each such commissioned officer or employee, and each such officer or employee shall be allowed reasonable time during working hours to prepare such suggestions, if such officer or employee chooses to make suggestions under this section.

Changes,
information to
congressional
committees.

10 USC 2203
note.

31 USC 1301
note.
31 USC 1.

Sale or transfer of
defense articles,
report to
Congress.
10 USC 133 note.

10 USC 2390.

Semiannual
report to
congressional
committees.

“(b) The Secretary of Defense shall submit a semiannual report to the Committees on Armed Services of the Senate and House of Representatives containing a copy of each suggestion submitted under subsection (a) during the preceding six-month period and the response of the Department of Defense to each such suggestion.”.

(b) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by adding after the item relating to section 2389 the following new item:

“2390. Suggestions for improving procurement policies.”.

Short title.

SEC. 816. This Act may be cited as the “Department of Defense Appropriation Authorization Act, 1978”.

Approved July 30, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-194 (Comm. on Armed Services) and No. 95-446 (Comm. of Conference).

SENATE REPORTS: No. 95-129 (Comm. on Armed Services) and No. 95-282 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 123 (1977):

Apr. 21, 22, 25, considered and passed House.

May 16, 17, considered and passed Senate, amended.

July 13, House agreed to conference report.

July 14, Senate agreed to conference report.