

Public Law 94-106  
94th Congress

An Act

To authorize appropriations during the fiscal year 1976, and the period beginning July 1, 1976, and ending September 30, 1976, 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, and to authorize the military training student loads and for other purposes.

Oct. 7, 1975  
[H.R. 6674]

*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, 1976.

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated during the fiscal year 1976 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, \$337,500,000; for the Navy and the Marine Corps, \$2,997,800,000; for the Air Force, \$4,119,000,000, of which amount not to exceed \$64,000,000 is authorized for the procurement of only long lead items for the B-1 bomber aircraft. None of the funds authorized by this Act may be obligated or expended for the purpose of entering into any production contract or any other contractual arrangement for production of the B-1 bomber aircraft unless the production of such aircraft is hereafter authorized by law. The funds authorized in this Act for long lead items for the B-1 bomber aircraft do not constitute a production decision or a commitment on the part of Congress for the future production of such aircraft.

MISSILES

For missiles: for the Army, \$431,000,000; for the Navy, \$990,400,000; for the Marine Corps, \$52,900,000; for the Air Force, \$1,765,000,000, of which \$265,800,000 shall be used only for the procurement of Minuteman III missiles.

NAVAL VESSELS

For Naval vessels: for the Navy, \$3,899,400,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, \$864,000,000, of which \$379,400,000 shall be used only for the procurement of M-60 series tanks; for the Marine Corps, \$101,500,000.

## TORPEDOES

For torpedoes and related support equipment: for the Navy, \$189,500,000.

## OTHER WEAPONS

For other weapons: for the Army, \$74,300,000; for the Navy, \$17,700,000; for the Marine Corps, \$100,000.

## TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated during the fiscal year 1976 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, \$2,028,933,000;

For the Navy (including the Marine Corps), \$3,318,649,000;

For the Air Force, \$3,737,001,000; and

For the Defense Agencies, \$588,700,000, of which \$25,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

## TITLE III—ACTIVE FORCES

SEC. 301. (a) For the fiscal year beginning July 1, 1975, and ending June 30, 1976, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 785,000;

(2) The Navy, 528,651;

(3) The Marine Corps, 196,303;

(4) The Air Force, 590,000.

Reduction.

(b) The end strength for active duty personnel prescribed in subsection (a) of this section shall be reduced by 9,000. Such reduction shall be apportioned among the Army, Navy, including the Marine Corps, and the Air Force in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to Congress within 60 days after the date of enactment of this Act on the manner in which this reduction is to be apportioned among the Armed Forces and shall include the rationale for each reduction.

Report to  
Congress.

## TITLE IV—RESERVE FORCES

SEC. 401. (a) For the fiscal year beginning July 1, 1975, and ending June 30, 1976, 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, 400,000;

(2) The Army Reserve, 219,000;

(3) The Naval Reserve, 106,000;

(4) The Marine Corps Reserve, 32,481;

(5) The Air National Guard of the United States, 94,879;

(6) The Air Force Reserve, 51,789;

(7) The Coast Guard Reserve, 11,700.

Reduction.

(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 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.

## TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) For the fiscal year beginning July 1, 1975, and ending June 30, 1976, the Department of Defense is authorized an end strength for civilian personnel of 1,058,000.

(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 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 for 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, or 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 a 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.

(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 one-half of one per centum 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 any authorization to increase civilian personnel strength under the authority of this subsection.

Notice to  
Congress.

## TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. (a) For the fiscal year beginning July 1, 1975, and ending June 30, 1976, each component of the Armed Forces is authorized an average military training student load as follows:

- (1) The Army, 83,101;
- (2) The Navy, 69,513;
- (3) The Marine Corps, 26,489;
- (4) The Air Force, 51,225;
- (5) The Army National Guard of the United States, 9,788;
- (6) The Army Reserve, 7,359;
- (7) The Naval Reserve, 1,661;
- (8) The Marine Corps Reserve, 2,769;
- (9) The Air National Guard of the United States, 1,952; and
- (10) The Air Force Reserve, 810.

(b) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components prescribed in subsection (a) of this section for the fiscal year ending June 30, 1976, shall be adjusted consistent with the manpower strengths provided 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.

## TITLE VII—AUTHORIZATION FOR THE PERIOD BEGINNING JULY 1, 1976, AND ENDING SEPTEMBER 30, 1976

SEC. 701. PROCUREMENT.—Funds are hereby authorized to be appropriated for the period July 1, 1976, to September 30, 1976, 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, \$59,400,000; for the Navy and the Marine Corps, \$585,500,000; for the Air Force, \$858,000,000, of which amount not to exceed \$23,000,000 is authorized for the procurement of only long lead items for the B-1 bomber aircraft.

## MISSILES

For missiles: for the Army, \$56,500,000; for the Navy, \$308,600,000; for the Marine Corps, \$10,700,000; for the Air Force, \$252,200,000.

## Naval Vessels

For naval vessels: for the Navy, \$474,200,000.

## TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, \$245,300,000, of which \$133,000,000 shall be used only for the procurement of M-60 series tanks; for the Marine Corps, \$400,000.

## TORPEDOES

For torpedoes and related support equipment: for the Navy, \$19,200,000.

## OTHER WEAPONS

For other weapons: for the Army, \$9,700,000; for the Navy, \$1,400,000.

SEC. 702. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—Funds are hereby authorized to be appropriated for the period July 1, 1976, to September 30, 1976, 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, \$513,326,000;

For the Navy (including the Marine Corps), \$849,746,000;

For the Air Force, \$965,783,000; and

For the Defense Agencies, \$144,768,000, of which \$5,000,000 is authorized for the activities of the Director of Test and Evaluation Defense.

SEC. 703. ACTIVE FORCES.—(a) For the period beginning July 1, 1976, and ending September 30, 1976, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

- (1) The Army, 793,000;
- (2) The Navy, 535,860;
- (3) The Marine Corps, 196,498;
- (4) The Air Force, 590,000.

(b) The end strength for active duty personnel prescribed in subsection (a) of this section shall be reduced by 9,000. Such reduction shall be apportioned among the Army, Navy, including the Marine Corps, and Air Force in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to Congress within 60 days after the date of enactment of this Act on the manner in which this reduction is to be apportioned among the Armed Forces and shall include the rationale for each reduction.

Reduction.

Report to Congress.

SEC. 704. RESERVE FORCES.—(a) For the period beginning July 1, 1976, and ending September 30, 1976, 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, 400,000;
- (2) The Army Reserve, 219,000;
- (3) The Naval Reserve, 106,000;
- (4) The Marine Corps Reserve, 33,013;
- (5) The Air National Guard of the United States, 94,543;
- (6) The Air Force Reserve, 53,642;
- (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 period; and (2) the total number of individual members not 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 period. Whenever such units or such individual members are released from active duty during the period, the average strength for such period 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.

Reduction.

SEC. 705. CIVILIAN PERSONNEL.—(a) For the period beginning July 1, 1976, and ending September 30, 1976, the Department of



Defense is authorized an end strength for civilian personnel of 1,064,400.

Report to  
Congress.

(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 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 for each allocation.

(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, or 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 a 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.

Notice 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 one-half of 1 per centum 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 any authorization to increase civilian personnel strength under the authority of this subsection.

SEC. 706. MILITARY TRAINING STUDENT LOADS.—(a) For the period beginning July 1, 1976, and ending September 30, 1976, each component of the Armed Forces is authorized an average military training student load as follows:

- (1) The Army, 75,185;
- (2) The Navy, 70,571;
- (3) The Marine Corps, 26,788;
- (4) The Air Force, 52,280;
- (5) The Army National Guard of the United States, 9,481;
- (6) The Army Reserve, 5,518;
- (7) The Naval Reserve, 2,106;
- (8) The Marine Corps Reserve, 4,088;
- (9) The Air National Guard of the United States, 2,180; and
- (10) The Air Force Reserve, 836.

(b) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components prescribed in subsection (a) of this section for the period beginning July 1, 1976, and ending September 30, 1976, shall be adjusted consistent with the manpower strengths provided in sections

703, 704, and 705 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.

## TITLE VIII—GENERAL PROVISIONS

SEC. 801. (a) Section 138 of title 10, United States Code, is amended as follows:

(1) Subsection (a) of such section is amended—

(A) by striking out “or” at the end of paragraph (4);

(B) by inserting “or” after the semicolon at the end of paragraph (5); and

(C) by inserting immediately after paragraph (5) the following new paragraph:

“(6) military construction (as defined in subsection (e) of this section);”

(2) Such section is amended by adding at the end thereof the following new subsection:

“Military construction.”

“(e) For purposes of subsection (a)(6) of this section, the term ‘military construction’ includes any construction, development, conversion, or extension of any kind which is carried out with respect to any military facility or installation (including any Government-owned or Government-leased industrial facility used for the production of defense articles and any facility to which section 2353 of this title applies) but excludes any activity to which section 2673 or 2674, or chapter 133, of this title apply, or to which section 406(a) of Public Law 85-241 (71 Stat. 556) applies.”

42 USC 1594i.  
10 USC 138 note.

(b) The amendment provided by paragraph (2) of subsection (a) above with respect to funds not heretofore required to be authorized shall only apply to funds authorized for appropriation for fiscal year 1977 and thereafter.

SEC. 802. (a) The second sentence of section 511(d) of title 10, United States Code, is amended by striking out “four months” and inserting in lieu thereof “twelve weeks”.

(b) Section 671 of title 10, United States Code, is amended by striking out “four months” and inserting in lieu thereof “twelve weeks”.

(c) The sixth paragraph of section 4(a) of the Military Selective Service Act (50 U.S.C. App. 454(a)) is amended by striking out “four months” each time it appears in such paragraph and inserting in lieu thereof in each case “twelve weeks”.

(d) The third sentence of section 6(c)(2)(A) of the Military Selective Service Act (50 U.S.C. App. 456(c)(2)(A)) is amended by striking out “four consecutive months” and inserting in lieu thereof “twelve consecutive weeks”.

SEC. 803. (a) Notwithstanding any other provision of law, in the administration of chapter 403 of title 10, United States Code (relating to the United States Military Academy), chapter 603 of such title (relating to the United States Naval Academy), and chapter 903 of such title (relating to the United States Air Force Academy), the Secretary of the military department concerned shall take such action as may be necessary and appropriate to insure that (1) female individuals shall be eligible for appointment and admission to the service academy concerned, beginning with appointments to such academy for the class beginning in calendar year 1976, and (2) the academic and other relevant standards required for appointment, admission, train-

10 USC 4342  
note.

ing, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals.

(b) Title 10, United States Code, is amended as follows:

(1) Sections 4342, 6954, and 9342 are each amended by striking out the word "sons" wherever it appears therein and inserting in place thereof in each instance the word "children".

(2) Section 6956(d) is amended by striking out the word "men" wherever it appears therein and inserting in place thereof in each instance the word "members".

10 USC 4342  
note.

(c) It is the sense of Congress that, subject to the provisions of subsection (a), the Secretaries of the military departments shall, under the direction of the Secretary of Defense, continue to exercise the authority granted them in chapters 403, 603 and 903 of title 10, United States Code, but such authority must be exercised within a program providing for the orderly and expeditious admission of women to the academies, consistent with the needs of the services, with the implementation of such program upon enactment of this Act.

SEC. 804. (a) Chapter 4 of title 10, United States Code, is amended by adding the following new section after section 139 and inserting a corresponding item in the chapter analysis:

10 USC 140.

**"§ 140. Emergencies and extraordinary expenses**

"(a) Subject to the limitations of subsection (c) of this section, and within the limitation of appropriations made for the purpose, the Secretary of Defense and the Secretary of a military department within his department, may provide for any emergency or extraordinary expense which cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary concerned for any purpose he determines to be proper, and such a determination is final and conclusive upon the accounting officers of the United States. The Secretary concerned may certify the amount of any such expenditure authorized by him that he considers advisable not to specify, and his certificate is sufficient voucher for the expenditure of that amount.

"(b) The authority conferred by this section may be delegated by the Secretary of Defense to any person in the Department of Defense or by the Secretary of a military department to any person within his department, with or without the authority to make successive redelegations.

"(c) In any case in which funds are expended under the authority of subsections (a) and (b) of this section, the Secretary of Defense shall submit a report of such expenditures on a quarterly basis to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives."

Report to  
congressional  
committees.

Repeal.

(b) Section 7202 of title 10, United States Code, and the corresponding item in the analysis of such chapter are repealed.

SEC. 805. Section 139(b) of title 10, United States Code, is amended by deleting the word "sixty" and inserting in lieu thereof the word "ninety".

SEC. 806. Section 1401a of title 10, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(f) Notwithstanding any other provision of law, the monthly retired or retainer pay of a member or a former member of an armed force who initially became entitled to that pay on or after January 1, 1971, may not be less than the monthly retired or retainer pay to which he would be entitled if he had become entitled to retired or retainer



pay at an earlier date, adjusted to reflect any applicable increases in such pay under this section. In computing the amount of retired or retainer pay to which such a member would have been entitled on that earlier date, the computation shall, subject to subsection (e) of this section, be based on his grade, length of service, and the rate of basic pay applicable to him at that time. This subsection does not authorize any increase in the monthly retired or retainer pay to which a member was entitled for any period prior to the effective date of this subsection."

SEC. 807. In any case in which funds are unavailable for the payment of a claim arising under a contract entered into prior to July 1, 1974, for the construction or conversion of any naval vessel, the Secretary of the Navy is authorized to settle such claim, but the settlement thereof shall be made subject to the authorization and appropriation of funds therefor. The Secretary of the Navy shall promptly forward to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives copies of all claim settlements made under this section.

SEC. 808. Concurrent with the submission of the President's budget for the fiscal year commencing October 1, 1976, the Secretary of Defense shall submit a five-year naval ship new construction and conversion program. Thereafter, concurrent with the annual submission of the President's budget, the Secretary of Defense shall report to the Committees on Armed Services of the Senate and the House of Representatives any changes to such a five-year program as he deems necessary for the current year, and for the succeeding years, based upon, but not limited to, alterations in the defense strategy of the United States and advances in defense technology. This section does not in any way change existing law with respect to the annual authorization of the construction and conversion of naval vessels.

SEC. 809. The restrictive language contained in section 101 of the Department of Defense Appropriations Authorization Act, 1975 (Public Law 93-365), and in section 101 of the Department of Defense Appropriations Authorization Act, 1974 (Public Law 93-155), under the heading "Naval Vessels", which relates to the use of funds for the DLGN nuclear guided missile frigate program, shall not apply with respect to \$101,000,000 of long lead funding provided for in such Acts for the DLGN-42 nuclear guided missile frigate.

SEC. 810. No funds authorized for appropriation to the Department of Defense shall be obligated under a contract for any multiyear procurement as defined in section I-322 of the Armed Services Procurement Regulations (as in effect on September 26, 1972) where the cancellation ceiling for such procurement is in excess of \$5,000,000 unless the Congress, in advance, approves such cancellation ceiling by statute.

SEC. 811. (a) Beginning with the quarter ending December 31, 1975, the Secretary of Defense shall submit to the Congress within 30 days after the end of each quarter of each fiscal year, written selected acquisition reports for those major defense systems which are estimated to require the total cumulative financing for research, development, test, and evaluation in excess of \$50,000,000 or a cumulative production investment in excess of \$200,000,000. If the reports received are preliminary then final reports are to be submitted to the Congress within 45 days after the end of each quarter.

(b) Any report required to be submitted under subsection (a) shall include, but not be limited to, the detailed and summarized information included in reports required by section 139 of title 10, United States Code.

10 USC 7291  
note.

Report to  
congressional  
committees.

88 Stat. 400.

87 Stat. 605.

Reports to  
Congress.  
10 USC 139 note.

Report to  
congressional  
committees.  
10 USC 133 note.

SEC. 812. The Secretary of Defense, after consultation with the Secretary of State, shall prepare and submit to the Committees on Armed Services of the Senate and the House of Representatives a written annual report on the foreign policy and military force structure of the United States for the next fiscal year, how such policy and force structure relate to each other, and the justification for each. Such report shall be submitted not later than January 31 of each year.

Report to  
Congress.  
10 USC 133 note.

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, 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; and

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

SEC. 814. (a) It is the sense of the Congress that equipment, procedures, ammunition, fuel and other military impedimenta for land, air and naval forces of the United States stationed in Europe under the terms of the North Atlantic Treaty should be standardized or made interoperable with that of other members of the North Atlantic Treaty Organization to the maximum extent feasible. In carrying out such policy the Secretary of Defense shall, to the maximum feasible extent, initiate and carry out procurement procedures that provide for the acquisition of equipment which is standardized or interoperable with equipment of other members of the North Atlantic Treaty Organization whenever such equipment is designed primarily to be used by personnel of the Armed Forces of the United States stationed in Europe under the terms of the North Atlantic Treaty.

88 Stat. 401.

(b) The report required under section 302(c) of Public Law 93-365 shall include a listing of the initiation of procurement action on any new major system not in compliance with the policy set forth in section (a).

Report to  
Congress.

(c) Section 302(c) of Public Law 93-365 is amended by deleting the last two sentences and inserting in lieu thereof the following: "The Secretary of Defense shall report annually, not later than January 31 of each year, to the Congress on the specific assessments and evaluations made under the above provisions as well as the results achieved with the North Atlantic Treaty Organization allies."

SEC. 815. Notwithstanding any other provision of law, the authority provided in section 501 of Public Law 91-441 (84 Stat. 909) is hereby extended until June 30, 1977; 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.

Petroleum supply  
to Armed Forces,  
discrimination,  
prohibited.  
10 USC 2304  
note.

SEC. 816. (a) The Armed Forces of the United States operate worldwide in maintaining international peace and in protecting the interests of the United States. It is essential to the effective operation of the Armed Forces that they receive adequate supplies of petroleum products. Citizens and nationals of the United States and corporations organized or operating within the United States enjoy the benefits of the United States flag and the protection of the Armed Forces and owe allegiance to the United States. It is the purpose of this section to provide a remedy for discrimination by citizens or nationals of the United States or corporations organized or operating within the United States, and by organizations controlled by them, against the Department of Defense in the supply of petroleum products.

(b) (1) No supplier shall engage in discrimination (as defined in subsection (e) (2) of this section) in the supply, either within or outside the United States, of petroleum products for the Armed Forces of the United States.

(2) The Secretary of Defense, whenever he has reason to believe that there has been discrimination, shall immediately refer the matter to the Attorney General of the United States who shall immediately institute an investigation.

Investigation.

(c) (1) The several district courts of the United States are invested with jurisdiction to prevent and restrain discrimination prohibited by subsection (b) (1) of this section; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings to prevent and restrain such discrimination. Such proceedings may be by way of petitions setting forth the case and requesting that the discrimination be enjoined or otherwise prohibited. Pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as it determines appropriate under the circumstances of the case.

Jurisdiction.

(2) Whenever it shall appear to the court before which any proceeding under paragraph (1) of this subsection may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

(3) Any proceeding under paragraph (1) of this subsection against any corporation may be brought not only in the judicial district in which it is incorporated, but also in any district in which it may be found or transacts business; and all process in such cases may be served in the district in which it is incorporated, or wherever it may be found.

(4) In any proceeding brought in any district court of the United States pursuant to this section, the Attorney General may file with the clerk of such court a certificate of the Secretary of Defense that, in his opinion, the proceeding is of critical importance to the effective operation of the Armed Forces of the United States and that immediate relief from the discrimination is necessary, a copy of which shall be immediately furnished by such clerk to the chief judge of the circuit (or, in his absence, the presiding circuit judge) in which the proceeding is pending. Upon receipt of the copy of such certificate, it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge, to hear and determine such proceeding. Except as to causes which the court considers to be of greater urgency, proceedings before any district court under this section shall take precedence over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(5) In every proceeding brought in any district court of the United States under this section, an appeal from the final order of the district court will be only to the Supreme Court.

(d) (1) For the purpose of any investigation instituted by the Attorney General pursuant to subsection (b) of this section, he, or his designee, shall at all reasonable times (A) have access to the premises or property of, (B) have access to and the right to copy the books, records, and other writings of, (C) have the right to take the sworn testimony of, and (D) have the right to administer oaths and affirmations to, any person as may be necessary or appropriate, in his discre-

tion, to the enforcement of this section and the regulations or orders issued thereunder.

**Rules and regulations.**

(2) The Attorney General shall issue rules and regulations insuring that the authority of paragraph (1) of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpoena served upon, any person with respect to any action taken by the Attorney General under paragraph (1) of this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the Attorney General, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The production of any person's books, records, or other documentary evidence shall not be required at any place other than the place where such person usually keeps them, if, prior to the return date specified in the regulations, subpoena, or other document issued with respect thereto, such person furnishes the Attorney General with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with the Attorney General as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

**Witness fees.**

**Penalty.**

(4) Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by paragraph (1) of this subsection, or any rule, regulation, or order issued under paragraph (2) of this subsection, shall upon conviction be fined not more than \$1,000 or imprisoned for not more than one year or both.

**Confidentiality.**

(5) Information obtained under this section which the Attorney General deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the Attorney General determines that the withholding thereof is contrary to the interest of the national defense. Any person who willfully violates this subsection shall, upon conviction, be fined not more than \$10,000, or imprisoned for not more than one year, or both. All information obtained by the Attorney General under this section and which he deems confidential shall not be published or disclosed, either to the public or to another Federal agency, not including the Congress or any duly authorized committee thereof in the performance of its functions, unless the Attorney General determines that the withholding thereof is contrary to the interests of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

**Penalty.**

(6) Any person subpoenaed under this section shall have the right to make a record of his testimony and to be represented by counsel.

(7) No individual who, having claimed his privilege against self-incrimination, is compelled to testify or produce evidence, documentary or otherwise, under the provision of this section, may be prosecuted in any criminal proceeding of the offense of discrimination established by this section.

**Definitions.**

(e) As used in this section—

(1) The term "United States" when used in a geographical sense includes the several States, the possessions of the United States, the Canal Zone, and the District of Columbia.



(2) The term "discrimination" means the willful refusal or failure of a supplier, when requested by the Secretary of Defense or his designee, to supply petroleum products for the use of the Armed Forces of the United States under the terms of any contract or under the authority of the Defense Production Act, as amended (64 Stat. 798, 50 U.S.C. App. 2061-2166), the Emergency Petroleum Allocation Act, as amended (Public Law 93-159); or under the provisions of any other authority, on terms not inconsistent with the applicable Armed Services Procurement Regulations, as amended from time to time, and at prices which are fair and reasonable and do not exceed prices received for similar products and quantities from other domestic or foreign customers. Disagreements as to price or other terms or conditions shall be disputes as to questions of fact to be resolved in the manner prescribed by the applicable Armed Services Procurement Regulations, as amended from time to time, for the settlement of disputes arising out of contracts and shall not be a basis for delay or refusal to supply petroleum products.

15 USC 751 note.

(3) The term "supplier" means any citizen or national of the United States, any corporation organized or operating within the United States, or any organization controlled by any United States citizen, national, or corporation organized or operating within the United States, engaged in producing, refining or marketing of petroleum or petroleum products.

(f) Any supplier who willfully discriminates as prohibited by subsection (b) (1) of this section shall, upon conviction, be fined not more than \$100,000 or imprisoned for not more than two years, or both.

Penalty.

(g) If any provision of this section or the application thereof to any person or circumstances is held invalid, the validity of the remaining provisions of this section and the application of such provision to other persons and circumstances shall not be affected thereby.

(h) The provisions of this section shall expire two years after the date of enactment of this Act, except that—

Expiration.

(1) any supplier who, before the date of the expiration of this section, willfully violated any provision of this section shall be punished in accordance with the provisions of such section as in effect on the date the violation occurred;

(2) any proceeding relating to any provision of this section which is pending at the time this section expires shall be continued by the Attorney General as if this subsection had not been enacted, and orders issued in any such proceeding shall continue in effect as if they had been effectively issued under this section before the expiration thereof or until otherwise terminated by appropriate action;

(3) the expiration of this section shall not affect any suit, action, or other proceeding lawfully commenced before the expiration of this section, and all such suits, actions, and proceedings shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if this section had not expired; and

(4) the provisions of this section relating to the improper publication or disclosure of information shall continue in effect, in the same manner and with the same effect as if this section had not expired, with respect to any publication or disclosure (prohibited by such section before the expiration thereof) made after the expiration of such section if the information published or disclosed was obtained under authority of this section before the expiration of this section.

Report to  
congressional  
committees.

50 USC 1511  
note.

"Lethal binary  
chemical  
munitions."

37 USC 1009  
note.

Enlisted aides.

SEC. 817. The Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a plan that identifies the platform and funding for AEGIS fleet implementation.

SEC. 818. (a) Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this or any other Act shall be used for the purpose of production of lethal binary chemical munitions unless the President certifies to Congress that the production of such munitions is essential to the national interest and submits a full report thereon to the President of the Senate and the Speaker of the House of Representatives as far in advance of the production of such munitions as is practicable.

(b) For purposes of this section the term "lethal binary chemical munitions" means (1) any toxic chemical (solid, liquid, or gas) which, through its chemical properties, is intended to be used to produce injury or death to human beings, and (2) any unique device, instrument, apparatus, or contrivance, including any components or accessories thereof, intended to be used to disperse or otherwise disseminate any such toxic chemical.

SEC. 819. (a) Notwithstanding any other provision of law, the aggregate amount of any upward adjustments in certain elements of compensation of members of the uniformed services required by section 1009 of title 37, United States Code, may not exceed 5 per centum during the period from January 1, 1975, through June 30, 1976, except that no such restriction shall apply unless a 5 per centum restriction on the aggregate amount of upward adjustments of the General Schedule of compensation for Federal classified employees as contained in section 5332 of title 5, United States Code, is also required during that period.

(b) No reduction in compensation is required under subsection (a) of any upward adjustment that may have been put into effect under section 1009 of title 37, United States Code, between January 1, 1975, and the date of enactment of this section.

(c) Any upward adjustment in compensation which has been limited by subsection (a) of this section to an amount or amounts less than otherwise would have been in effect shall not be increased subsequent to June 30, 1976—

(1) in order to compensate a member for the difference between the amounts he has received under the provisions of subsection (a) and the amounts he would have otherwise received; or

(2) except in accordance with the normal procedures and timing which would have been in effect for any such pay increase subsequent to June 30, 1976, without regard to any limitation under subsection (a) of this section.

SEC. 820. (a) Notwithstanding any other provision of law, the total number of enlisted members of the Armed Forces of the United States that may be assigned or otherwise detailed to duty as enlisted aides on the personal staffs of officers of the Army, Navy, Marine Corps, Air Force, and Coast Guard (when operating as a service of the Navy) during any fiscal year shall be a number determined by (1) multiplying 4 times the number of officers serving on full-time active duty at the end of the fiscal year in the pay grade of O-10, (2) multiplying 2 times the number of officers serving on full-time active duty at the end of the fiscal year in the pay grade of O-9, and (3) adding the products obtained under clauses (1) and (2).

(b) The Secretary of Defense shall allocate the aides authorized by subsection (a) of this section among officers of the Armed Forces, in such numbers as he determines appropriate, on the basis of the duties of such officers.

(c) This section shall not apply with respect to the number of aides assigned to generals of the Army or admirals of the Fleet.

SEC. 821. Notwithstanding any provision of section 2004 of title 10, United States Code, an officer in any pay grade who was in a missing status (as defined in section 551(2) of title 37, United States Code) after August 4, 1964, and before May 8, 1975, may be selected for detail for legal training under that section 2004 on other than a competitive basis and, if selected for that training, is not counted in computing, for the purpose of subsection (a) of that section 2004, the number of officers who may commence that training in any single fiscal year. For the purposes of determining eligibility under that section 2004, the period of time during which an officer was in that missing status may be disregarded in computing the period he has served on active duty. 10 USC 2004 note.

SEC. 822. This Act may be cited as the "Department of Defense Appropriation Authorization Act, 1976". Short title.

Approved October 7, 1975.

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#### LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-199 (Comm. on Armed Services) and Nos. 94-413 and 94-488 (Comm. of Conference).

SENATE REPORTS: No. 94-146 accompanying S. 920 (Comm. on Armed Services) and Nos. 94-334 and 94-385 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 121 (1975):

May 15, 19, 20, considered and passed House.

May 22, June 2-5, S. 920 considered in Senate.

June 6, considered and passed Senate, amended, in lieu of S. 920.

July 30, House agreed to conference report.

Aug. 1, Senate rejected conference report.

Sept. 3, House disagreed to Senate amendments and asked for further conference with the Senate; Senate insisted upon its amendments and requested further conference with the House.

Sept. 24, House agreed to conference report.

Sept. 26, Senate agreed to conference report.