Public Law 94-361
94th Congress

An Act

To authorize appropriations during the fiscal year 1977 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.

July 14, 1976
[H.R. 12438]

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, 1977.

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated during the fiscal year 1977 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 in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $554,100,000; for the Navy and the Marine Corps, $2,995,800,000, of which not more than $104,100,000 shall be available only for the procurement of US-3A COD aircraft and of which $65,800,000 shall be available only for the procurement of the A-6E aircraft; for the Air Force, $6,143,800,000.

MISSILES

For missiles: for the Army, $552,400,000; for the Navy, $1,732,900,000, of which no funds may be expended on the Sparrow AIM-7F missile program until the Secretary of Defense certifies to the Committees on Armed Services of the Senate and the House of Representatives that he has reviewed the test and evaluation results for such missile and has determined, on the basis of such results, that such missile fulfills Navy and Air Force mission requirements and is combat-effective; for the Marine Corps, $71,900,000; for the Air Force, $1,883,100,000, of which $317,000,000 shall be used only for the procurement of Minuteman III missiles.

NAVAL VESSELS

For naval vessels: for the Navy, $6,655,000,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,056,500,000, of which $65,200,000 shall be available for plant facilities expansion and modernization for future XM-1 tank production, but none of such funds may be obligated on a specific production site until such time as competitive testing between possible United States XM-1 tank contenders has been completed and a winning United States contractor designated; for the Marine Corps, $29,700,000.

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TORPEDOES

For torpedoes and related support equipment: for the Navy, $236,800,000.

OTHER WEAPONS

For other weapons: for the Army, $57,300,000; for the Navy, $73,000,000; for the Marine Corps, $3,500,000; for the Air Force, $400,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated during the fiscal year 1977 for the use of the Armed Forces of the United States for research, development, test, and evaluation in amounts as follows:

For the Army, $2,281,491,000, except that none of the funds authorized by this Act may be used to initiate Phase 2 engineering development on the 30 millimeter gun for the Advance Attack Helicopter until (1) the Secretary of the Army has selected the ammunition for such gun and notified the Committees on Armed Services of the Senate and the House of Representatives of such selection, and (2) 30 days have expired following the day on which such committees received such notification.

For the Navy (including the Marine Corps), $3,708,101,000; of which not to exceed $2,000,000 shall be available for the completion by June 30, 1977, of the advanced development phase of the Sparrow AIM-7F monopulse missile; and of which $15,000,000 shall be available for the engineering development phase of the AIM-7F monopulse missile, but only if (1) the missile flight test and evaluation results fully demonstrate the ability of such missile to perform in accordance with the specifications and requirements for the AIM-7F monopulse missile, and (2) not less than $5,000,000 has been appropriated for the development of a new adverse weather medium range air-to-air missile and the Secretary of the Navy and Secretary of the Air Force have commenced development of such missile.

For the Air Force, $3,749,530,000; and

For the Defense Agencies, $687,880,000, of which $30,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

SEC. 202. For the Director of Defense Research and Engineering, $49,000,000 to be used only for research, development, test, and evaluation of the Trident missile system, including the continued design of the thrust termination system and the development of a backup propellent for such system.

TITLE III—ACTIVE FORCES

SEC. 301. For the fiscal year beginning October 1, 1976, the components of the Armed Forces are authorized end strengths for active duty personnel as follows:

(1) The Army, 789,000;
(2) The Navy, 540,600;
(3) The Marine Corps, 192,000;
(4) The Air Force, 571,000.

Report to Congress.

SEC. 302. Paragraph (3) of section 138(c) of title 10, United States Code, is amended by adding at the end thereof a new sentence as follows: "Such report shall also identify, define, and group by mission

and by region the types of military bases, installations, and facilities and shall provide an explanation and justification of the relationship between this base structure and the proposed military force structure together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce such costs.".

SEC. 303. (a) Clause (3) of section 1009(b) of title 37, United States Code, is amended by inserting "subject to subsection (c)," after "(3)".

(b) Section 1009 of such title is further amended by adding at the end thereof the following new subsections:

Compensation adjustments, allocation.

"(c) Whenever the President determines such action to be in the best interest of the Government, he is authorized to allocate the overall average percentage of any increase described in subsection (b)(3) among the elements of compensation specified in subsection (a) on a percentage basis other than an equal percentage basis; however, the amount allocated to the element of monthly basic pay may not be less than 75 per centum of the amount that would have been allocated to the element of basic pay under subsection (b)(3).

"(d) Under regulations prescribed by the President, whenever the President exercises his authority under subsection (c) to allocate the elements of compensation specified in subsection (a) on a percentage basis other than an equal percentage basis, he may pay to each member without dependents who, under section 403 (b) or (c), is not entitled to receive a basic allowance for quarters, an amount equal to the difference between (1) the amount of such increase under subsection (c) in the amount of the basic allowance for quarters which, but for section 403 (b) or (c), such member would be entitled to receive, and (2) the amount by which such basic allowance for quarters would have been increased under subsection (b)(3) if the President had not exercised such authority.

Advice to Congress.

"(e) Whenever the President plans to exercise his authority under subsection (c) with respect to any anticipated increase in the compensation of members of the uniformed services, he shall advise the Congress, at the earliest practicable time prior to the effective date of such increase, regarding the proposed allocation of such increase among the different elements of compensation.

Report to Congress.

"(f) The allocations of increases made under this section among the three elements of compensation shall be assessed in conjunction with the quadrennial review of military compensation required by section 1008(b), and a full report shall be made to the Congress summarizing the objectives and results of those allocations.".

Leave.

SEC. 304. (a) Subsection (a) of section 501 of title 37, United States Code, is amended by (1) striking out "In subsections (b)-(f) of this section—

"(1) 'discharge' means—"

and inserting in lieu thereof "In this section, 'discharge' means—"; (2) redesignating subclauses (A), (B), and (C) of clause (1) as clauses (1), (2), and (3), respectively; and (3) striking out the semicolon at the end of clause (3), as redesignated, and inserting in lieu thereof a period.

(b) Subsection (a) of such section is further amended by striking out clauses (2), (3), and (4).

(c) Subsection (b) of such section is amended to read as follows:

"(b)(1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who has accrued leave to his credit at the time of his discharge, is entitled to be paid in cash or by a check on the Treasurer of the United States for such leave on the basis of the basic pay to which he was entitled on the date of discharge.

"(2) Payment may not be made under this subsection to a member who is discharged for the purpose of accepting an appointment or a warrant, or entering into an enlistment, in any uniformed service.

"(3) Payment may not be made to a member for any leave he elects to have carried over to a new enlistment in any uniformed service on the day after the date of his discharge; but payment may be made to a member for any leave he elects not to carry over to a new enlistment. However, the number of days of leave for which payment is made may not exceed sixty, less the number of days for which payment was previously made under this section after the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted.

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"(4) A member to whom a payment may not be made under this subsection, or a member who reverts from officer to enlisted status, carries the accrued leave standing to his credit from the one status to the other within any uniformed service.".

(d) The last sentence of subsection (d) of such section is amended to read as follows: "However, the number of days upon which payment is based is subject to subsection (f).".

(e) Subsection (e) of such section is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(f) Subsection (f) is amended to read as follows:

"(f) The number of days upon which payment under subsection (b), (d), or (g) is based may not exceed sixty, less the number of days for which payment has been previously made under such subsections after the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted. For the purposes of this subsection, the number of days upon which payment may be based shall be determined without regard to any break in service or change in status in the uniformed services.".

(g) The second sentence of subsection (g) is amended to read as follows: "However, the number of days upon which the lump-sum payment is based is subject to subsection (f).".

37 USC 501 note.

(h) Notwithstanding the provisions of section 501(b)(1) of title 37, United States Code, as amended by subsection (c), and subject to the limitations prescribed in section 501(b)(3) of such title, as amended by subsection (c), any leave accrued by any member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration prior to the first day of the second calendar month following the month in which this section is enacted shall, at the option of such member, be paid for on the same basis such leave would have been paid for under the provisions of section 501(b) of title 37, United States Code, on the day prior to the first day of the second calendar month following the month in which this section is enacted.

37 USC 302 note.

SEC. 305. The second sentence of section 2 of Public Law 93-274 (88 Stat. 94) is amended by striking out that portion preceding "authority for" and inserting in lieu thereof "The".

TITLE IV—RESERVE FORCES

SEC. 401. (a) For the fiscal year beginning October 1, 1976, the Selected Reserves of the Reserve components of the Armed Forces shall be programed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 390,000;
(2) The Army Reserve, 212,400;
(3) The Naval Reserve, 96,500;
(4) The Marine Corps Reserve, 33,500;
(5) The Air National Guard of the United States, 93,300;
(6) The Air Force Reserve, 52,000;
(7) The Coast Guard Reserve, 11,700.

Reduction in strength.

(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 such 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 such 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 October 1, 1976, the Department of Defense is authorized an end strength for civilian personnel of 1,031,000.

(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, 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.

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(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.

Notice to Congress.

TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. (a) For the fiscal year beginning October 1, 1976, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 81,429;
(2) The Navy, 66,914;
(3) The Marine Corps, 25,501;
(4) The Air Force, 49,610;
(5) The Army National Guard of the United States, 12,804;
(6) The Army Reserve, 7,023;
(7) The Naval Reserve, 1,257;
(8) The Marine Corps Reserve, 3,562;
(9) The Air National Guard of the United States, 2,232; and
(10) The Air Force Reserve, 1,107.

(b) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized by subsection (a) for the fiscal year beginning October 1, 1976, shall be adjusted consistent with the manpower strengths authorized by 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. Chapter 901 of title 10, United States Code, is amended by adding at the end thereof the following new section and inserting a corresponding item in the analysis of such chapter:

10 USC 9315.

"§ 9315. Community College of the Air Force: associate degrees

"(a) There is in the Air Force a Community College of the Air Force. Such college, in cooperation with civilian colleges and universities, shall—

"(1) prescribe programs of higher education for enlisted members of the armed forces designed to improve the technical, managerial, and related skills of such members and to prepare such members for military jobs which require the utilization of such skills; and

"(2) monitor on a continuing basis the progress of members pursuing such programs.

"(b) Subject to subsection (c), the commander of the Air Training Command of the Air Force may confer an academic degree at the level of associate upon any enlisted member who has completed the program prescribed by the Community College of the Air Force.

"(c) No degree may be conferred upon any enlisted member under this section unless (1) the Community College of the Air Force certifies to the commander of the Air Force Training Command that such member has satisfied all the requirements prescribed for such degree, and (2) the Commissioner of Education of the Department of Health,

Education, and Welfare determines that the standards for the award of academic degrees in agencies of the United States have been met.".

SEC. 603. (a) It is the policy of the United States that the United States Navy and the Merchant Marine of the United States work closely together to promote the maximum integration of the total sea-power forces of the Nation. In furtherance of this policy, it is necessary and desirable that special steps be taken to assure that Naval Reserve Officer Training Corps programs (for training future naval officers) be maintained at Federal and State merchant marine academies. 46 USC 1126-1.

(b) It is the sense of the Congress that the Secretary of the Navy should work with the Assistant Secretary of Commerce for Maritime Affairs and the administrators of the several merchant marine academies to assure that the training available at these academies is consistent with Navy standards and needs.

SEC. 604. The Act of November 24, 1951, Public Law 92-172 (85 Stat. 491), is amended by striking out "1976" and inserting in lieu thereof "1977". 37 USC 209 note.

TITLE VII—SUPPLEMENTAL AUTHORIZATION OF FUNDS FOR THE NAVY FOR FISCAL YEAR 1976

SEC. 701. In addition to the funds authorized to be appropriated by the Department of Defense Appropriation Authorization Act, 1976, there is authorized to be appropriated to the Navy during the fiscal year 1976 for research, development, test, and evaluation, $8,000,000. 89 Stat. 531.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. (a) The second sentence of section 1401a(b) of title 10, United States Code, is amended by striking out "the per centum obtained by adding 1 per centum and".

(b) The second sentence of paragraph (2) of section 291(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended by striking out "1 per centum plus".

(c)(1) The amendments made by subsections (a) and (b) shall not become effective unless legislation is enacted repealing the so-called 1 per centum add-on provision applicable to the cost-of-living adjustment of annuities paid under chapter 83 of title 5, United States Code. In the event such legislation is enacted, such amendments shall become effective with respect to the cost-of-living adjustment of the retired pay and retainer pay of members and former members of the Armed Forces and the cost-of-living adjustment of annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees at the same time the repeal of such 1 per centum add-on provision becomes effective with respect to such cost-of-living adjustment of annuities paid under such chapter 83. 10 USC 1401a note. 5 USC 8301 *et seq.* 50 USC 403 note.

(2) If any change other than the repeal of the so-called 1 per centum add-on provision referred to in paragraph (1) is made in the method of computing the cost-of-living adjustment of annuities paid under chapter 83 of title 5, United States Code, the President shall make the same change in the cost-of-living adjustment of retired pay and retainer pay of members and former members of the Armed Forces and the cost-of-living adjustment of annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees. Any change made under this paragraph shall have the same effective date as the

effective date applicable to such change made in annuities under chapter 83 of title 5, United States Code.

5 USC 8301 *et seq.*

(3) The provisions of paragraphs (1) and (2) relating to any change in the method of computing the cost-of-living adjustment of the retired pay or retainer pay of members and former members of the Armed Forces shall be applicable to the computation of cost-of-living adjustments of the retired pay of commissioned officers of the National Oceanic and Atmospheric Administration and the retired pay of commissioned officers of the Public Health Service.

89 Stat. 540.

SEC. 802. Section 814(a) of the Department of Defense Appropriation Authorization Act, 1976 (89 Stat. 544), is amended to read as follows:

Standardized or interoperable equipment.

"(a)(1) It is the policy of the United States that equipment procured for the use of personnel of the Armed Forces of the United States stationed in Europe under the terms of the North Atlantic Treaty should be standardized or at least interoperable with equipment of other members of the North Atlantic Treaty Organization. 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 to be used by personnel of the Armed Forces of the United States stationed in Europe under the terms of the North Atlantic Treaty. Such procedures shall also take into consideration the cost, functions, quality, and availability of the equipment to be procured. In any case in which equipment authorized to be procured under title I of this Act is utilized for the purpose of carrying out the foregoing policy, the Secretary of Defense shall report to Congress the full details of the nature and substance of any and all agreements entered into by the United States with any other member or members of the North Atlantic Treaty Organization providing for the acquisition of equipment manufactured outside the United States in exchange for, or as a part of, any other agreement by such member or members to acquire equipment manufactured in the United States. Such report shall be made by the Secretary within 30 days of the date of enactment of this Act.

Report to Congress. 89 Stat. 531.

"(2) Whenever the Secretary of Defense determines that it is necessary, in order to carry out the policy expressed in paragraph (1) of this subsection, to procure equipment manufactured outside the United States, he is authorized to determine, for the purposes of section 2 of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a), that the acquisition of such equipment manufactured in the United States is inconsistent with the public interest.

Report to Congress.

"(3) In any case in which the Secretary of Defense initiates procurement action on a new major system which is not standard or interoperable with equipment of other members of the North Atlantic Treaty Organization, he shall report that fact to the Congress in the annual report required under section 302(c) of Public Law 93-365, as amended, including a description of the system to be procured and the reasons for that choice.".

88 Stat. 402.

NATO members, standardized or interoperable weapons and equipment.

SEC. 803. (a) It is the sense of Congress that weapons systems being developed wholly or primarily for employment in the North Atlantic Treaty Organization theater shall conform to a common North Atlantic Treaty Organization requirement in order to proceed toward joint doctrine and planning and to facilitate maximum feasible standardization and interoperability of equipment. A common North

Atlantic Treaty Organization requirement shall be understood to include a common definition of the military threat to the North Atlantic Treaty Organization countries. The Secretary of Defense shall, in the reports required by section 302(c) of Public Law 93-365, as amended, identify those programs in research and development for United States forces in Europe and the common North Atlantic Treaty Organization requirements which such programs support. In the absence of such common requirement, the Secretary shall include a discussion of the actions taken within the North Atlantic Alliance in pursuit of a common requirement. The Secretary of Defense shall also report on efforts to establish a regular procedure and mechanism within the North Atlantic Treaty Organization for determining common military requirements.

88 Stat. 402.

(b) It is the sense of the Congress that progress toward the realization of the objectives of standardization and interoperability would be enhanced by expanded inter-Allied procurement of arms and equipment within the North Atlantic Treaty Organization. It is further the sense of the Congress that expanded inter-Allied procurement would be facilitated by greater reliance on licensing and coproduction agreements among the signatories of the North Atlantic Treaty. It is the Congress' considered judgment that such agreements, if properly constructed so as to preserve the efficiencies associated with economies of scale, could not only minimize potential economic hardship to parties to such agreements but also increase the survivability, in time of war, of the Alliance's armaments production base by dispersing manufacturing facilities. Accordingly, the Secretary of Defense, in conjunction with appropriate representatives of other members of the Alliance, shall attempt to the maximum extent feasible (1) to identify areas for such cooperative arrangements and (2) to negotiate such agreements pursuant to these ends. The Secretary of Defense shall include in the report to the Congress required by section 302(c) of Public Law 93-365, as amended, a discussion of the specific assessments made under the above provisions and the results achieved with the North Atlantic Treaty Organization allies.

(c) It is the sense of the Congress that standardization of weapons and equipment within the North Atlantic Alliance on the basis of a "two-way street" concept of cooperation in defense procurement between Europe and North America could only work in a realistic sense if the European nations operated on a united and collective basis. Accordingly, the Congress encourages the governments of Europe to accelerate their present efforts to achieve European armaments collaboration among all European members of the Alliance.

SEC. 804. (a) Section 2 of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251) is amended by inserting after the third sentence thereof a new sentence as follows: "The Congress recognizes that the organizational structure established jointly by the Federal Government and the several States and their political subdivisions for civil defense purposes can be effectively utilized, without adversely affecting the basic civil defense objectives of this Act, to provide relief and assistance to people in areas of the United States struck by disasters other than disasters caused by enemy attack.".

(b) Section 408 of such Act (50 U.S.C. App. 2260) is amended by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act in the fiscal year ending September 30, 1977. No funds may be appropriated for any fiscal

year beginning after September 30, 1977, for carrying out the purpose of this Act, unless such funds have been authorized for such purpose by legislation enacted after the date of enactment of the Department of Defense Appropriations Authorization Act, 1977.".

(c) Section 201 of such Act (50 U.S.C. App. 2281) is amended—

(1) by striking out in subsection (e) "*Provided further*, That the authority to pay travel and per diem expenses of students as authorized by this subsection shall terminate on June 30, 1976."; and

(2) by striking out in the fourth proviso of subsection (h) "until June 30, 1976,".

(d) Subsection (h) of section 205 of such Act (50 U.S.C. App. 2286(h)) is amended to read as follows:

Emergency assistance.

"(h) Funds made available to the States under this Act may be used, to the extent and under such terms and conditions as shall be prescribed by the Administrator, for providing emergency assistance, including civil defense personnel, organizational equipment, materials, and facilities, in any area of the United States which suffers a disaster other than a disaster caused by an enemy attack.".

Technical data and computer software packages, procurement. 10 USC 2306 note.

SEC. 805. (a) During the period beginning on October 1, 1976, and ending on September 30, 1978, each contract entered into by a military department for development or procurement of a major system shall, except as provided in subsection (b), include a deferred ordering clause giving the procuring authority for such system the option to purchase from the contractor involved technical data and computer software packages relating to such system. Such clause shall require such packages to be in sufficient detail to enable such procuring authority to reprocure such system, or a subsystem of such system, from a contractor other than the contractor involved in such contract.

Report to congressional committees.

(b) Any procuring authority to whom subsection (a) applies may exempt a particular contract for development or procurement of a major system from the requirements of such subsection, but, prior to the time any such contract without the deferred ordering clause required by such subsection is entered into, the procuring authority concerned shall report his intent to enter into such contract to the Committees on Armed Services and Appropriations of the Senate and House of Representatives with a detailed explanation for such exemption.

Definitions.

(c) For the purposes of this section:

(1) The term "major system" means a composite of equipment, skills, and techniques which is capable of performing, or supporting performance of, an operational role and which requires an investment in research, design, test, and evaluation of not less than $50,000,000 or a total production investment of not less than $200,000,000.

(2) The term "deferred ordering" means delaying the ordering of an item related to a contract until a need for such item is established and the requirements for such item can be specifically identified for delivery under such contract.

(3) The term "technical data" means, with respect to a major system, recorded data, regardless of form or characteristic, of a scientific or technical nature which is related to such system.

SEC. 806. The President shall include in the budget for fiscal year 1978 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. 807. Section 2031(a) of title 10, United States Code, is amended by striking out "1,200" in the second sentence and inserting in lieu thereof "1,600" and by striking out the period at the end and inserting in lieu thereof a comma and the following: "except that more than one such unit may be established and maintained at any military institute.".

Naval Reserve Training Centers or Facilities.

SEC. 808. It is the sense of the Congress that the Secretary of the Navy shall not take action with respect to closing, disestablishing, or terminating any Naval Reserve Training Center or Facility which was in active use on March 1, 1976, until legislation providing funds for the Selected Reserve of the Naval Reserve for fiscal year 1977 has been enacted into law.

Civilian faculty, utilization, study.

SEC. 809. The Secretary of Defense shall conduct a study to determine whether greater utilization of civilian faculty may be desirable at the service academies and intermediate and senior war colleges. Such study shall identify those subjects in the curriculums of such academies and colleges which are classified as being in the general academic area. The results of such study shall be submitted to the Committees on Armed Services of the Senate and House of Representatives not later than February 28, 1977.

Submittal to congressional committees.

Oceanographer of the Navy.

SEC. 810. Notwithstanding any other provision of law, the Secretary of the Navy is authorized to assign Rear Admiral J. Edward Snyder, Jr. (retired), to a command status as the Oceanographer of the Navy for a period not to exceed three years from the date of enactment of this Act.

10 USC 176 note.

SEC. 811. (a)(1) The Congress hereby finds and declares that—

(A) the Armed Forces Institute of Pathology offers unique pathologic support to national and international medicine;

(B) the Institute contains the Nation's most comprehensive collection of pathologic specimens for study and a staff of prestigious pathologists engaged in consultation, education, and research;

(C) the activities of the Institute are of unique and vital importance in support of the health care of the Armed Forces of the United States;

(D) the activities of the Institute are also of unique and vital importance in support of the civilian health care system of the United States;

(E) the Institute provides an important focus for the exchange of information between civilian and military medicine, to the benefit of both; and

(F) it is important to the health of the American people and of the members of the Armed Forces of the United States that the Institute continue its activities in serving both the military and civilian sectors in education, consultation, and research in the medical, dental, and veterinary sciences.

(2) The Congress further finds and declares that beneficial cooperative efforts between private individuals, professional societies, and other entities on the one hand and the Armed Forces Institute of Pathology on the other can be carried out most effectively through the establishment of a private corporation.

(b) Chapter 7 of title 10, United States Code, is amended by adding at the end thereof the following new sections:

"§ 176. Armed Forces Institute of Pathology

10 USC 176.

Establishment.

"(a)(1) There is in the Department of Defense an Institute to be known as the Armed Forces Institute of Pathology (hereinafter in

this section referred to as the 'Institute'), which has the responsibilities, functions, authority, and relationships set forth in this section. The Institute shall be a joint entity of the three military departments, subject to the authority, direction, and control of the Secretary of Defense.

Membership.

"(2) The Institute shall consist of a Board of Governors, a Director, two Deputy Directors, and a staff of such professional, technical, and clerical personnel as may be required.

"(3) The Board of Governors shall consist of the Assistant Secretary of Defense for Health Affairs, who shall serve as chairman of the Board of Governors, the Assistant Secretary of Health, Education, and Welfare for Health, the Surgeons General of the Army, Navy, and Air Force, the Chief Medical Director of the Veterans' Administration, and a former Director of the Institute, as designated by the Secretary of Defense, or the designee of any of the foregoing.

"(4) The Director and the Deputy Directors shall be appointed by the Secretary of Defense.

Contract authority.

"(b)(1) In carrying out the provisions of this section, the Institute is authorized to—

"(A) contract with the American Registry of Pathology (established under section 177) for cooperative enterprises in medical research, consultation, and education between the Institute and the civilian medical profession under such conditions as may be agreed upon between the Board of Governors and the American Registry of Pathology;

"(B) make available at no cost to the American Registry of Pathology such space, facilities, equipment, and support services within the Institute as the Board of Governors deems necessary for the accomplishment of their mutual cooperative enterprises; and

"(C) contract with the American Registry of Pathology for the services of such professional, technical, or clerical personnel as are necessary to fulfill their cooperative enterprises.

"(2) No contract may be entered into under paragraph (1) which obligates the Institute to make outlays in advance of the enactment of budget authority for such outlays.

"(c) The Director is authorized, with the approval of the Board of Governors, to enter into agreements with the American Registry of Pathology for the services at any time of not more than six distinguished pathologists or scientists of demonstrated ability and experience for the purpose of enhancing the activities of the Institute in education, consultation, and research. Such pathologists or scientists may be appointed by the Director to administrative positions within the components or subcomponents of the Institute and may be authorized by the Director to exercise any or all professional duties within the Institute, notwithstanding any other provision of law.

Regulations.

"(d) The Secretary of Defense shall promulgate such regulations as may be necessary to prescribe the organization, functions, and responsibilities of the Institute.

"§ 177. American Registry of Pathology

10 USC 177.
Establishment authorization.

"(a)(1) There is authorized to be established a nonprofit corporation to be known as the American Registry of Pathology which shall not for any purpose be an agency or establishment of the United States Government. The American Registry of Pathology shall be subject to the provisions of this section and, to the extent not inconsistent with

this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1001 et seq.).

"(2) The American Registry of Pathology shall have a Board of Members (hereinafter in this section referred to as the 'Board') consisting of not less than eleven individuals who are representatives of those professional societies and organizations which sponsor individual registries of pathology at the Armed Forces Institute of Pathology, of whom one shall be elected annually by the Board to serve as chairman. Each such sponsor shall appoint one member to the Board for a term of four years.

Board of Members.

"(3) The American Registry of Pathology shall have a Director, who shall be appointed by the Board with the concurrence of the Director of the Armed Forces Institute of Pathology, and such other officers as may be named and appointed by the Board. Such officers shall be compensated at rates fixed by the Board and shall serve at the pleasure of the Board.

"(4) The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish under the District of Columbia Nonprofit Corporation Act the corporation authorized by paragraph (1).

"(5) The term of office of each member of the Board shall be four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment and to the maximum extent practicable, one fourth at the end of one year, one fourth at the end of two years, one fourth at the end of three years, and one fourth at the end of four years, and (C) a member whose term has expired may serve until his successor has qualified. No member shall be eligible to serve more than two consecutive terms of four years each.

Term.

"(6) Any vacancy in the Board shall not affect its powers, but such vacancy shall be filled in the manner in which the original appointment was made.

"(b) In order to carry out the purposes of this section, the American Registry of Pathology is authorized to—

Functions.

"(1) enter into contracts with the Armed Forces Institute of Pathology for the provision of such services and personnel as may be necessary to carry out their cooperative enterprises;

"(2) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of fascicles of tumor pathology, atlases, and other material;

"(3) accept gifts and grants from and enter into contracts with individuals, private foundations, professional societies, institutions, and governmental agencies;

"(4) enter into agreements with professional societies for the establishment and maintenance of Registries of Pathology; and

"(5) serve as a focus for the interchange between military and civilian pathology and encourage the participation of medical, dental, and veterinary sciences in pathology for the mutual benefit of military and civilian medicine.

"(c) In the performance of the functions set forth in subsection (b), the American Registry of Pathology is authorized to—

"(1) enter into such other contracts, leases, cooperative agreements, or other transactions as the Board deems appropriate to

conduct the activities of the American Registry of Pathology; and

"(2) charge such fees for professional services as the Board deems reasonable and appropriate.

"(d) The American Registry of Pathology may transmit to the Director and the Board of Governors of the Armed Forces Institute of Pathology and to the sponsors referred to in subsection (a)(2) annually, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments.".

(c) The table of sections at the beginning of chapter 7 of title 10, United States Code, is amended by adding at the end thereof the following:

"176. Armed Forces Institute of Pathology.
"177. American Registry of Pathology.".

Short title.

SEC. 812. This Act may be cited as the "Department of Defense Appropriation Authorization Act, 1977".

Approved July 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-967 (Comm. on Armed Services) and No. 94-1305 (Comm. of Conference).
SENATE REPORTS: No. 94-878 (Comm. on Armed Services) and No. 94-1004 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Apr. 8, 9, considered and passed House.
May 20, 24-26, considered and passed Senate, amended.
June 30, House agreed to conference report.
July 1, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 29:
July 14, Presidential statement.